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CALIFORNIA. DEPT. OF NATURAL  
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BULLETIN.  
no.75



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CALIFORNIA STATE MINING BUREAU

FERRY BUILDING, SAN FRANCISCO

FLETCHER HAMILTON, . . . . . State Mineralogist

BULLETIN No. 75

San Francisco, September, 1917

# MINING LAWS

UNITED STATES AND CALIFORNIA



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## LETTER OF TRANSMITTAL.

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*To His Excellency, the HONORABLE WILLIAM D. STEPHENS,*

*Governor of the State of California.*

SIR: I have the honor to transmit herewith Bulletin No. 75 of the State Mining Bureau, being a compilation of the mining laws of the United States and California, and a revision of Bulletin 66, which was issued under date of January, 1914.

This office is in constant receipt of inquiries for copies of the laws governing mining in California, not only from residents of this state, but also from all parts of the United States and foreign countries, and as the edition of Bulletin 66 has been entirely exhausted, it is now deemed expedient to fulfill the demand by issuing this publication.

Respectfully submitted.

FLETCHER HAMILTON.

State Mineralogist.

San Francisco, September 29, 1917.



## CALIFORNIA STATE MINING BUREAU.

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The headquarters of the California State Mining Bureau are located on the third floor of the Ferry Building, San Francisco, and consist of the administrative offices of the State Mineralogist, State Supervisor of Petroleum and Gas, Library, Mineral Museum, and other offices necessary for carrying on the work of the bureau. The institution is supported by legislative appropriation, and is under the direction of Fletcher Hamilton, State Mineralogist. Its purpose is to promote the interests of the mineral industry in California in every possible way. This object is accomplished by various means, briefly outlined as follows:

### PUBLICATIONS.

Bulletins, reports, and maps, covering all phases of the mining industry of the state, compiled as a result of the work of mining engineers and geologists in the field, are available for reference and distribution upon application to this office. It is possible to distribute some of these publications free of charge, but for those more elaborate and detailed a nominal price is asked. (See list of publications, page 109.)

### GENERAL INFORMATION BUREAU.

An information desk is maintained at the main office of the bureau in the Ferry Building, and the entire staff of assistants is at the service of the public at all times in this regard. All personal and written inquiries relative to any phase of mining or the occurrence of mineral substances in California, are given careful and immediate attention.

### LIBRARY.

The Bureau Library contains over 5,000 volumes of selected works, including government, state and individual reports on mines and mining and allied technical subjects, as well as files of the leading technical magazines of the world, together with the current copies of the local papers from the majority of the mining camps of California. Here may also be found for reference county maps, topographical sheets, geological folios, etc. A reading room is maintained in conjunction with the library, and both are open to the public daily from 9 a.m. until 5 p.m., except Sundays and holidays; and from 9 a.m. to 12 m. Saturdays.

### LABORATORY.

Samples, limited to three at one time, of any mineral found in the state, may be sent to the bureau for identification, and the same will be classified free of charge. The bureau is not authorized to make determinations on samples received from points outside the state. It must also be understood that no assays or quantitative analyses can be made. Samples should be in lump form if possible, and marked plainly with

name of sender on outside of package. No samples will be received unless delivery charges are prepaid, and a letter should be forwarded at the same time, stating the general locality where the mineral was found, and the exact nature of the information desired. The work of this department is especially reliable, and many thousand prospectors and others have taken advantage of the assistance which is offered in this manner.

#### MUSEUM.

The Museum, which occupies the entire north wing of the third floor of the Ferry Building, with a floor space of 7,500 square feet, is not the least useful adjunct of the Mining Bureau. A complete mineralogical study of California may be carried on from the 20,000 mineral specimens to be seen attractively arranged in this immense exhibit. Aside from its purely scientific interest the Museum daily attracts throngs of tourists and sightseers, and accomplishes a great deal in the way of giving visual evidence of California's vast mineral resources.

#### STATISTICAL DEPARTMENT.

Since 1894 the bureau has annually issued a special bulletin covering in detail the actual mineral production of the state for the preceding year. Data covering the amount and value of the yearly output is received by the statistical department from every individual mineral operator in California, and these returns, when classified and published in county totals, give the clearest possible conception of the various sections of the state, and have proven in the past to be of great aid to prospective investors, and others interested. It is to the undoubted interest of every owner and operator of a mineral property in California to cooperate with the bureau in its efforts to collect reliable and authoritative statistical data.

#### DEPARTMENT OF PETROLEUM AND GAS.

This department was established by law August 9, 1915. It is under the general jurisdiction of the State Mineralogist, who is authorized to appoint as supervisor an engineer or geologist experienced in the development and production of petroleum. It is the duty of the supervisor to supervise the drilling, operation, maintenance and abandonment of petroleum or gas wells, so as to prevent damage to these deposits from infiltrating water and other causes. It is of vital interest to the general public that waste of the natural supply of petroleum and gas in California be prevented, and it is believed that the farsightedness of the framers of this law has been fully exemplified in the short time which has elapsed since the work in this department was first inaugurated, on account of the practical results which have followed it. Much of the damage caused in the past has been due to lack of knowledge of underground conditions. Information in this regard is being constantly gathered and systematized by the bureau, and the results placed at the disposal of the oil operators.

## MINING BUREAU ACT.

## CHAPTER 679.

An act establishing a state mining bureau, creating the office of state mineralogist, fixing his salary and prescribing his powers and duties; providing for the employment of officers and employees of said bureau, making it the duty of persons in charge of mines, mining operations and quarries to make certain reports, providing for the investigation of mining operations, dealings and transactions and the prosecution for defrauding, swindling and cheating therein, creating a state mining bureau fund for the purpose of carrying out the provisions of this act and repealing an act entitled "An act to provide for the establishment, maintenance, and support of a bureau, to be known as the state mining bureau, and for the appointment and duties of a board of trustees, to be known as the board of trustees of the state mining bureau, who shall have the direction, management and control of said state mining bureau, and to provide for the appointment, duties, and compensation of a state mineralogist, who shall perform the duties of his office under the control, direction and supervision of the board of trustees of the state mining bureau," approved March 23, 1893, and all acts amendatory thereof and supplemental thereto or in conflict herewith.

[Approved June 16, 1913. In effect August 19, 1913.]

*The people of the State of California do enact as follows:*

SECTION 1. There is hereby created and established a state mining bureau. The chief officer of such bureau shall be the state mineralogist, which office is hereby created.

SEC. 2. It shall be the duty of the governor of the State of California and he is hereby empowered to appoint a citizen and resident of this state, having a practical and scientific knowledge of mining, to the office of state mineralogist. Said state mineralogist shall hold his office at the pleasure of the governor. He shall be a civil executive officer. He shall take and subscribe the same oath of office as other state officers. He shall receive for his services a salary of three hundred dollars (\$300) per month, to be paid at the same time and in the same manner as the salaries of other state officers. He shall also receive his necessary traveling expenses when traveling on the business of his office. He shall give bond for the faithful performance of his duties in the sum of ten thousand dollars (\$10,000), said bond to be approved by the governor of the State of California.

SEC. 3. Said state mineralogist shall employ competent geologists, field assistants, qualified specialists and office employees when necessary in the execution of his plans and operations of the bureau, and fix their compensation. The said employees shall be allowed their necessary traveling expenses when traveling on the business of said department and shall hold office at the pleasure of said state mineralogist.

SEC. 4. It shall be the duty of said state mineralogist to make, facilitate, and encourage, special studies of the mineral resources and mineral industries of the state. It shall be his duty: to collect statistics concerning the occurrence and production of the economically important minerals and the methods pursued in making their valuable constituents available for commercial use; to make a collection of typical geological and mineralogical specimens, especially those of economic and commercial importance, such collection constituting the museum of the state mining bureau; to provide a library of books, reports, drawings, bearing upon the mineral industries, and sciences of mineralogy and geology, and arts of mining and metallurgy, such library constituting the library of the state mining bureau; to make a collection of models, drawings and descriptions of the mechanical appliances used in mining and metallurgical processes; to preserve and so maintain such collections and library as to make them available for reference and examination, and open to public inspection at reasonable hours; to maintain, in effect, a bureau of information concerning the mineral industries of this state, to consist of such collections and library, and to arrange, classify, catalogue, and index the data therein contained, in a manner to make the information available to those desiring it; to issue from time to time such bulletins as he may deem advisable concerning the statistics and technology of the mineral industries of this state.

SEC. 5. It is hereby made the duty of the owner, lessor, lessee, agent, manager or other person in charge of each and every mine, of whatever kind or character, within the state, to forward to the state mineralogist, upon his request, at his office

not later than the thirtieth day of June, in each year, a detailed report upon forms which will be furnished showing the character of the mine, the number of men then employed, the method of working such mine and the general condition thereof, the total mineral production for the past year, and such owner, lessor, lessee, agent, manager or other person in charge of any mine within the state must furnish whatever information relative to such mine as the state mineralogist may from time to time require for the proper discharge of his official duties. Any owner, lessor, lessee, agent, manager or other person in charge of each and every mine, of whatever kind or character within the state, who fails to comply with the above provisions shall be deemed guilty of a misdemeanor.\*

SEC. 6. The state mineralogist now performing the duties of the office of state mineralogist shall perform the duties of the office of state mineralogist as in this act provided until the appointment and qualification of his successor as in this act provided.

SEC. 7. The said state mineralogist shall take possession, charge and control of the offices now occupied and used by the board of trustees and state mineralogist and the museum, library and laboratory of the mining bureau located in San Francisco as provided for by a certain act of the legislature approved March 23, 1893, and hereafter referred to in section fourteen hereof, and shall maintain such offices, museum, library and laboratory for the purposes provided in this act.

SEC. 8. Said state mineralogist or qualified assistant shall have full power and authority at any time to enter or examine any and all mines, quarries, wells, mills, reduction works, refining works and other mineral properties or working plants in this state in order to gather data to comply with the provisions of this act.

SEC. 9. The state mineralogist shall make a biennial report to the governor on or before the fifteenth day of September next preceding the regular session of the legislature.

SEC. 10. All moneys received by the state mining bureau or any officer thereof (except such as may be paid to them by the state for disbursement) shall be receipted for by the state mineralogist or other officer authorized by him to act in his place and at least once a month accounted for by him to the state controller and paid into the state treasury to the credit of a fund which is hereby created and designated "State Mining Bureau Fund." All moneys now in the possession of the state mining bureau or any officer thereof received from any source whatsoever, shall be immediately paid over to the state mineralogist and by him accounted for to the controller and paid into the state treasury to the credit of said fund. Said fund shall be used and is hereby appropriated for the use of said bureau in carrying out the purposes of this act.

SEC. 11. The said state mineralogist is hereby authorized and empowered to receive on behalf of this state, for the use and benefit of the state mining bureau, gifts, bequests, devices and legacies of real or other property and to use the same in accordance with the wishes of the donors, and if no instructions are given by said donors, to manage, use, and dispose of the gifts and bequests and legacies for the best interests of said state mining bureau and in such manner as he may deem proper.

SEC. 12. The state mineralogist may whenever he deems it advisable, prepare a special collection of ores and minerals of California to be sent to or used at any world's fair or exposition in order to display the mineral wealth of the state.

SEC. 13. The state mineralogist is hereby empowered to fix a price upon and to dispose of to the public, at such price, any and all publications of the state mining bureau, including reports, bulletins, maps, registers or other publications; such price shall approximate the cost of publication and distribution. Any and all sums derived from such disposition, or from gifts or bequests made, as hereinbefore provided must be accounted for by said state mineralogist and turned over to the state treasurer to be credited to the mining bureau fund as provided for in section ten. He is also empowered to furnish without cost to public libraries the publications of the bureau, and to exchange publications with other geological surveys and scientific societies, etc.

SEC. 14. The state mineralogist provided for by this act shall be the successor in interest of the board of trustees of the state mining bureau, and the state mineralogist, under and by virtue of that certain act, entitled "An act to provide for

\*Sec. 19 of the Penal Code of California provides: "Except in cases where a different punishment is prescribed by this code, every offense declared to be a misdemeanor is punishable by imprisonment in a county jail not exceeding six months, or by a fine not exceeding five hundred dollars, or by both."

the establishment, maintenance, and support of a bureau, to be known as the state mining bureau, and for the appointment and duties of a board of trustees, to be known as the board of trustees of the state mining bureau, who shall have the direction, management, and control of said state mining bureau, and to provide for the appointment, duties, and compensation of a state mineralogist, who shall perform the duties of his office under the control, direction and supervision of the board of trustees of the state mining bureau," approved March 23, 1893, and all books, papers, documents, personal property, records, and property of every kind and description obtained or possessed, or held or controlled by the said board of trustees of the said state mining bureau, and the state mineralogist, and the clerks and employees thereof, under the provisions of said act of March 23, 1893, or any act supplemental thereto or amendatory thereof, shall immediately be turned over and delivered to the said state mineralogist herein provided for, who shall have charge and control thereof.

SEC. 15. That certain act entitled "An act to provide for the establishment, maintenance, and support of a bureau, to be known as the state mining bureau, and for the appointment and duties of a board of trustees, to be known as the board of trustees of the state mining bureau, and to provide for the appointment, duties and compensation of a state mineralogist, who shall perform the duties of his office under the control, direction, and supervision of the board of trustees of the state mining bureau," approved March 23, 1893, together with all acts amendatory thereof and supplemental thereto and all acts in conflict herewith are hereby repealed.

## DEPARTMENT OF PETROLEUM AND GAS.

### CHAPTER 718.

An act establishing and creating a department of the state mining bureau for the protection of the natural resources of petroleum and gas from waste and destruction through improper operations in production; providing for the appointment of a state oil and gas supervisor; prescribing his duties and powers; fixing his compensation; providing for the appointment of deputies and employees; providing for their duties and compensation; providing for the inspection of petroleum and gas wells; requiring all persons operating petroleum and gas wells to make certain reports; providing procedure for arbitration of departmental rulings; creating a fund for the purposes of the act; providing for assessment of charges to be paid by operators and providing for the collection thereof; and making an appropriation for the purposes of this act.

[Approved June 10, 1915. Amended 1917. Chapter 759.]

*The people of the state of California do enact as follows:*

**Establishment of department. Appointment of supervisor.**

SECTION 1. A separate department of the state mining bureau is hereby established and created to be known as the department of petroleum and gas. Such department shall be under the general jurisdiction of the state mineralogist. He shall appoint a supervisor who shall be a competent engineer or geologist experienced in the development and production of petroleum and who shall be designated the "state oil and gas supervisor," and whose term of office shall be four years from and after the date of his appointment.

**Appointment of assistants. Compensation.**

SEC. 2. For his services in the general supervision of said department, the state mineralogist shall receive as compensation one thousand four hundred dollars annually which shall be in addition to his compensation fixed in section two of the act of June 16, 1913, relating to the state mining bureau. The secretary of the state mining bureau shall receive for his services in connection with the department of petroleum and gas, a sum not to exceed six hundred dollars annually, which sum shall be in addition to his compensation paid from the funds of the state mining bureau.

The supervisor shall receive an annual salary of six thousand dollars, and shall be allowed his necessary traveling expenses. The state mineralogist may, at the

request of the state oil and gas supervisor, and subject to the civil service laws of the state, appoint one chief clerk at a salary of not to exceed one thousand eight hundred dollars annually; twelve office assistants or stenographers each at a salary not to exceed one thousand two hundred dollars annually; four geological draughtsmen each at a salary not to exceed one thousand five hundred dollars annually; four petroleum engineers each at a salary not to exceed two thousand four hundred dollars annually; twelve inspectors each at a salary not to exceed one thousand eight hundred dollars annually.

The additional salary herein authorized to be paid to the state mineralogist and the secretary of the state mining bureau and the salaries of the supervisor and of the deputies, clerks, stenographers, assistants and other employees shall be paid out of the funds hereinafter provided for at the times and in the manner that salaries of other state officers and employees are paid.

#### **Duties of supervisor.**

SEC. 3. It shall be the duty of the state oil and gas supervisor so to supervise the drilling, operation and maintenance and abandonment of petroleum or gas wells in the State of California, as to prevent, as far as possible, damage to underground petroleum and gas deposits from infiltrating water and other causes and loss of petroleum and natural gas.

#### **Appointment of deputies and attorney.**

SEC. 4. It shall be the duty of the state oil and gas supervisor to appoint one chief deputy and five field deputies, one for each of the districts hereinafter provided for and prescribe their duties and fix their compensation, which shall not exceed four thousand dollars per annum for the chief deputy and not to exceed three thousand six hundred dollars per annum for each field deputy. Such deputies shall serve during the pleasure of the supervisor. He shall also employ an attorney at a compensation not exceeding three thousand dollars per year, payable out of said fund, who shall also be attorney for each district board of commissioners; such commissioners may allow additional compensation to such attorney in actual litigation. The supervisor, the deputies and the attorney shall not be subject to the civil service act.

#### **Duties of deputies.**

SEC. 5. Each deputy appointed by the supervisor shall be a competent engineer or geologist, experienced in the development and production of petroleum. At the time said deputy is appointed, notice of such appointment shall be transmitted in writing to the board of commissioners of the district for which said deputy is appointed. Said notice shall be given either personally or by mailing a notice of said appointment to the post-office address of each commissioner. No appointment shall be final until a period of ten days shall have elapsed from the mailing of said notice to said commissioners. In the event the majority of the commissioners notify said oil and gas supervisor in writing before the expiration of ten days from the date of said notice that the appointment of said field deputy is disapproved by them, then and in that event said field deputy shall not be appointed but said oil and gas supervisor must appoint some other individual as in this section provided. Each field deputy shall maintain an office in the district for which he is appointed, convenient of access to the petroleum and gas operators therein. The office shall be open and the deputy shall be present at certain specified times which shall be posted at such office.

SEC. 6. It shall be the duty of each deputy, to collect all necessary information regarding the oil wells in the district, with a view to determining the presence and source of water in the oil sand, and to make all maps and other accessories necessary to determine the presence and source of water in the oil sands. This work shall be done with the view to advising the operators as to the best means of protecting the oil and gas sands, and with a view to aiding the supervisor in ordering tests or repair work at wells. All such data shall be kept on file in the office of the deputy oil and gas supervisor of the respective district.



**Records and their use.**

SEC. 7. The records of any and all operators, when filed with the deputy supervisor as hereinafter provided, shall be open to inspection to those authorized in writing by such operators, to the state officers, and to the board of commissioners hereinafter provided for. Such records shall in no case other than those hereinafter and in this section provided, be available as evidence in court proceedings and no officer or employee or member of any board of commissioners shall be allowed to give testimony as to the contents of said records, except at such court proceedings as are hereinafter provided for in the review of the decision of the state oil and gas supervisor, or a board of commissioners, or in any proceedings initiated for the enforcement of an order of the supervisor, or any proceeding initiated for the enforcement of a lien created by this act, or any proceeding for the collection of the assessment levied under and pursuant to the provisions of this act or in criminal proceedings arising out of such records, or the statements upon which they are based.

**Orders by supervisor. Agents of operators.**

SEC. 8. It shall be the duty of the supervisor to order such tests or remedial work as in his judgment are necessary to protect the petroleum and gas deposits from damage by underground water, to the best interests of the neighboring property owners, and the public at large.

The order shall be in written form, signed by the supervisor, and shall be served upon the owner of the well, or the local agent appointed by such owner, either personally or by mailing a copy of said order to the post-office address given at the time the local agent is designated, or if no such local agent has been designated, by mailing a copy of said order to the last known post-office address of said owner, or if the owner be unknown by posting a copy of said order in a conspicuous place upon the property, and publishing the same in some newspaper of general circulation throughout the county in which said well is located, once a week for two successive weeks.

Said order shall specify the condition sought to be remedied and the work necessary to protect such deposits from damage from underground waters. For this purpose each operator or owner shall designate an agent, giving his post-office address, who resides within the county where the well or wells are located, upon whom all orders and notices provided for in this act may be served.

**Rejection of supervisor's orders, and appeal.**

SEC. 9. The well owner or his local agent may within ten days from the date of service of any order from the supervisor, file with the supervisor or his deputy in the district where the property is located, a statement that the supervisor's order is not acceptable and that appeal from said order is taken to the board of commissioners. Such appeal shall operate as a stay of any order issued under or pursuant to the provisions of this act.

**Districts, commissioners, election, recall.**

SEC. 10. For the purposes of this act the state shall be divided into five districts, as follows:

District No. 1, including the counties of Los Angeles, Riverside, Orange, San Diego, Imperial and San Bernardino.

District No. 2, the county of Ventura.

District No. 3, including the counties of Santa Barbara, San Luis Obispo, Monterey, Santa Cruz, San Benito, Santa Clara, Contra Costa, San Mateo, Alameda and San Francisco.

District No. 4, including the counties of Tulare, Inyo and Kern.

District No. 5, including the counties of Fresno, Madera, Kings, Mono, Mariposa, Merced and all other counties in California not included in any of said other districts.

There shall be elected at the times and in the manner hereinafter provided, district oil and gas commissioners for each such district, as follows:

For district number one, five; for district number two, five; for district number three, five; for district number four, seven; for district number five, five.

Said district oil and gas commissioners shall be elected by vote of the companies, individuals, copartnerships or associations, who shall have been assessed, and whose names shall appear on the last record of assessments (next preceding such election) for and on account of the fund in this act provided to be raised, within said districts respectively, said vote to be taken at a meeting to be held in each of said districts respectively, and on the third Monday in September of each year, such place and the time and details of such meeting to be fixed by the state oil and gas supervisor, and of which meeting at least two weeks previous notice shall have been given by letter addressed to each of said persons, corporations, copartnerships and associations, entitled to vote as aforesaid, at his or its post-office address or principal place of business.

At said meeting each of those entitled to vote as herein provided may be represented by one person holding the written authority of such voter to act for him at such meeting.

At said meeting each voter shall be entitled to one vote for each member of the board of district oil and gas commissioners who are required to be selected for such district. In addition thereto, in each district in which five commissioners are to be elected, each voter shall be entitled, for each one hundred dollars, or fraction thereof, which said voter shall have paid in accordance with his last assessment hereunder, to cast one vote for the two commissioners who are elected for three years; and in each district in which seven commissioners are to be elected, each voter shall be entitled, for each one hundred dollars, or fraction thereof, which said voter shall have paid in accordance with his last assessment hereunder, to cast one vote for the three commissioners who are elected for three years. In all subsequent elections the qualification of voters in the election of a commissioner shall be the same as in the election of the commissioner whose successor in office is being elected.

Said meeting shall select by ballot, by a majority vote of the votes represented, the number of persons as hereinbefore specified to act as district oil and gas commissioners for such district.

In any district entitled to seven commissioners, two shall be chosen for a term of one year, two for two years and three for three years. In any district entitled to five commissioners, one shall be chosen for a term of one year, two for two years and two for three years.

The chairman and secretary of the meeting shall issue a written certificate to the state oil and gas supervisor, setting forth the result of such election, and the name and address of each of the persons elected at said meeting as the district oil and gas commissioners for said district and the term for which each has been elected. No person shall be eligible as a district oil and gas commissioner who is not a resident of the district for which he is elected, nor shall any person be eligible for such position who is not actually engaged in the business of oil or gas development or production, within the district.

Upon receipt of the certificate so made by the chairman and secretary of any such meeting, the state oil and gas supervisor shall issue a certificate of election to the respective persons in said certificate named as the district oil and gas commissioners for said district, and for the periods of one, two or three years from and after the first Monday in October, 1917, as shall be shown in such certificate, and until their respective successors shall have been elected.

Within thirty days after their appointment by the state oil and gas supervisor, the district oil and gas commissioners for each district shall meet at a time and place within the district to be designated by the state oil and gas supervisor, and shall thereupon select one of the number as chairman.

The deputy supervisor of the district shall be ex officio secretary of said board, and shall keep a record of its proceedings, and his office shall be the office of the commissioners.

Said commissioners shall serve without compensation, except their necessary traveling expenses. The traveling expenses of said commissioners and all actual expenses incurred by or under order of said commissioners in the hearing and determination

and carrying out of orders appealed to them, shall be certified to said state supervisor, and when audited by him and by the state board of control shall be paid from said fund.

On the third Tuesday in September of each year at an hour and places in said respective districts to be fixed by the state oil and gas supervisor, and of which notices shall have been given as hereinbefore specified, the successor of each of the district oil and gas commissioners whose term of appointment shall expire that year, shall be elected and qualified in the manner and subject to the provisions hereinbefore set forth, and the term of each shall be for a period of three years from and after the first Monday in October next succeeding.

All, either or any of the district oil and gas commissioners elected in any district may be recalled by the votes of a majority of the qualified votes of the district entitled to vote as to such commissioners respectively. In case there shall be filed in the office of the state oil and gas supervisor, a written petition, signed by not less than forty per cent of those entitled to vote as to the election of any commissioner or commissioners, asking the recall of such commissioner or commissioners, said state oil and gas supervisor shall, within ten days thereafter, order and give notice of, a special election in such district to fill the office or offices of the commissioner or commissioners named in said petition for recall; and shall cause notice to be given of said election in the manner, and for the time required for regular election, and said notice shall fix the time and place of such election.

At such election, the commissioner or commissioners named in such petition for recall shall be voted upon as though candidates for election for the unexpired portion of the term for which they, respectively, were originally elected, and any other candidate or candidates may, at the same time, be voted upon. It shall require a majority of all the qualified votes entitled to vote for such commissioners, respectively, to constitute an election. In case less than a majority of all qualified votes shall be cast for any candidate, said recall shall be deemed to have failed as to the commissioner concerning whose office such vote was taken; and in case such commissioner himself shall receive a majority of the votes, said recall shall be deemed to have failed, and in either of such cases, such commissioner shall continue to serve until the expiration of his term as though no such special election had been held. But in case any person other than such commissioner shall receive a majority of the votes for such unexpired term, then such recall shall become effective and the office of the commissioner so recalled shall be vacant and upon written certificate of such election being filed with the state oil and gas supervisor, the person so chosen and elected for such unexpired term shall become the successor of the commissioner so recalled, and a certificate of his election for such unexpired term shall be issued and transmitted to him by the state oil and gas supervisor. And like proceedings shall be had in case more than one commissioner shall be included in said petition for recall.

In all recall elections, qualifications for voters and the numbers of votes which they will be entitled to cast shall be the same as they respectively were in the election of the commissioner as to whom such recall election is being held.

In case of vacancy caused by the death, resignation or removal from district or ceasing to be engaged in the business of development or production of oil or gas in the district as to the office of any commissioner, such vacancy shall be filled until the next annual election by the state oil and gas supervisor, who shall appoint to fill such vacancy an eligible person, nominated in writing by the remaining commissioners of such district.

Upon any subject in which any commissioner is personally interested, or upon which any corporation, copartnership, association or individual by whom he is employed is directly interested as a party, such commissioner shall not be entitled to sit or vote.

The board of commissioners shall be entitled to call upon the supervisor for advice, and written report upon any matter referred to the board of commissioners, and the supervisor shall be entitled to call meetings of the commissioners at the office of the field supervisor, upon five days' written notice, to obtain their written advice upon any matters relating to his work within their district.

**Complaint, investigation and order.**

SEC. 11. Upon receipt by the supervisor or deputy supervisor of a written complaint specifically setting forth the condition complained against, signed by a person, firm, corporation or association owning land or operating wells within a radius of one mile of any well or group of wells complained against, or upon the written complaint specifically setting forth the condition complained against, signed by any one of the board of commissioners for the district in which said well or group of wells complained against is situated, the supervisor must make an investigation of said well or wells and render a written report stating the work required to repair the damage complained of, or stating that no work is required. A copy of said order must be delivered to the complainant, or if more than one, each of said complainants, and if the supervisor order the damage repaired, a copy of such order shall be delivered to each of the owners, operators or agents having in charge the well or wells upon which the work is to be done. Said order shall contain a statement of the conditions sought to be remedied or repaired and a statement of the work required by the supervisor to repair such condition. Service of such copies shall be made by mailing to such persons at the post-office address given.

**Testimony.**

SEC. 12. In any proceeding before the board of commissioners as herein provided, or in any other proceeding or proceedings instituted by the supervisor for the purpose of enforcing or carrying out the provisions of this act, or for the purpose of holding an investigation to ascertain the condition of any well or wells complained of, or which in the opinion of the supervisor may reasonably be presumed to be improperly drilled, operated, maintained or conducted, the supervisor and the chairman of the board of commissioners shall have the power to administer oaths and may apply to a judge of the superior court of the State of California, in and for the county in which said proceeding or investigation is pending, for a subpoena for witnesses to attend at said proceeding or investigation. Upon said application of said supervisor or said chairman of said board of commissioners, said judge of said superior court must issue a subpoena directing said witness to attend said proceeding or investigation; *provided, however*, that no person shall be required to attend upon such proceeding, either with or without such books, papers, documents or accounts unless residing within the same county or within thirty miles of the place of attendance. But the supervisor or the chairman of the board of commissioners may in such case cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in superior courts of this state, and to that end may, upon application to a judge of the superior court of the county within which said proceeding or investigation is pending, obtain a subpoena compelling the attendance of witnesses and the production of books, papers and documents at such places as he may designate within the limits hereinbefore prescribed. Witnesses shall be entitled to receive the fees and mileage fixed by law in civil causes, payable from the fund hereinafter created. In case of failure or neglect on the part of any person to comply with any order of the supervisor as hereinbefore provided, or any subpoena, or upon the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, or upon refusal or neglect to appear and attend at any proceeding or hearing on the day specified, after having received a written notice of not less than ten days prior to such proceeding or hearing, or upon his failure, refusal or neglect to produce books, papers or documents as demanded in said order or subpoena upon such day, such failure, refusal or neglect shall constitute a misdemeanor and each day's further failure, refusal or neglect shall be and be deemed to be a separate and distinct offense, and it is hereby made the duty of the district attorney of the county in which said proceeding, hearing or investigation is to be held, to prosecute all persons guilty of violating this section by continuous prosecution until such person appears or attends or produces such books, papers or documents or complies with said subpoena or order of the supervisor or chairman of the board of commissioners.

**Final decision, and order by commissioners.**

SEC. 13. Within ten days after hearing the evidence, the board of commissioners must make a written decision with respect to the order appealed from and in case the same is affirmed or modified, shall retain jurisdiction thereof until such time as the work ordered to be done by such order shall be finally completed. This written decision shall be served upon the owner or his agent and shall supersede the previous order of the supervisor. In case no written decision be made by said board of commissioners within thirty days after the date of notice by the supervisor as provided in section ten hereof, the order of the supervisor shall be effective and subject only to review by writ of certiorari from the superior court as provided in section fourteen hereof.

**Repair of wells by supervisor. Review by superior court.**

SEC. 14. On or before thirty days after the date of serving an order of the supervisor, provided for in section eight hereof, or in case of appeal to the board of commissioners, on or before thirty days after date of serving the decision of the board, as provided in sections twelve and thirteen hereof, or in the event review be taken of the order of the board of commissioners within ten days after affirmation of such order, the owner shall commence in good faith the work ordered and continue until completion. If the work has not been so commenced and continued to completion, the supervisor shall appoint agents as he deems necessary who shall enter the premises and perform the work. Accurate account of such expenditures shall be kept and the amount paid from the fund hereinafter created upon the warrant of the state controller. Any amount so expended shall constitute a lien against the property upon which the work is done. The decision of the board of commissioners in such case may be reviewed by writ of certiorari from the superior court of the county in which the district is situated, if taken within ten days after the service of the order upon said owner, operator or agent of said owner or operator as herein provided; or within ten days after decision by the board of commissioners upon petitions by the supervisor. Such writ shall be made returnable not later than ten days after the issuance thereof and shall direct the district board of oil and gas commissioners to certify their record in the cause to such court. On the return day the cause shall be heard by the court unless for good cause the same be continued, but no continuance shall be permitted for a longer period than thirty days. No new or additional evidence shall be introduced in the court before the cause shall be heard upon the record of the district board of oil and gas commissioners. The review shall not be extended further than to determine whether or not

1. The commission acted without or in excess of its jurisdiction.
2. The order, decision or award was procured by fraud.
3. The order, decision, rule or regulation is unreasonable.
4. The order, decision, regulation or award is clearly unsupported by the evidence.

If no review be taken within ten days, or if taken in case the decision of the board is affirmed, the lien upon the property shall be enforced in the same manner as the other liens on real property are enforced, and shall first be enforced against the owner of the well, against the operator and against the personal property and fixtures used in the construction or operation thereof, and then if there be any deficiency against the land upon which the work is done, upon the request of the supervisor, the state controller must, in the manner provided in section forty-four of this act, bring an action for the enforcement of said lien.

**Casing. Water shut off.**

SEC. 15. It shall be the duty of the owner of any well now drilled, or that may be drilled in the State of California, on lands producing or reasonably presumed to contain petroleum or gas, to properly case such well or wells with metal casing, in accordance with methods approved by the supervisor, and to use every effort and endeavor in accordance with the most approved methods to effectually shut off all water overlying or underlying the oil or gas-bearing strata, and to effectually prevent any water from penetrating such oil or gas-bearing strata.

Whenever it appears to the supervisor that any water is penetrating oil or gas-bearing strata, he may order a test of water shut-off and designate a day upon which the same shall be held. Said order shall be in written form and served upon the owner of said well at least ten days prior to the day designated in said order as the day upon which said shut-off test shall be held. Upon the receipt of such order it shall be the duty of the owner to hold said test in the manner and at the time prescribed in said order.

#### **Abandonment of well.**

SEC. 16. It shall be the duty of the owner of any well referred to in this act, before abandoning the same, or before removing the rig, derrick or other operating structure therefrom, or removing any portion of the casing therefrom, to use every effort and endeavor in accordance with methods approved by the supervisor, to shut off and exclude all water from entering oil-bearing strata encountered in the well. Before any well is abandoned the owner shall give written notice to the supervisor, or his local deputy, of his intention to abandon such well and of his intention to remove the derrick or any portion of the casing from such well and the date upon which such work of abandonment or removal shall begin. The notice shall be given to the supervisor, or his local deputy, at least five days before such proposed abandonment or removal. The owner shall furnish the supervisor, or his deputy with such information as he may request showing the condition of the well and proposed method of abandonment or removal. The supervisor, or his deputy, shall before the proposed date of abandonment or removal, furnish the owner with a written order of approval of his proposal or a written order stating what work will be necessary before approval, to abandon or remove will be given. If the supervisor shall fail within the specified time to give the owner a written order such failure shall be considered as an approval of the owner's proposal to abandon the well, or to remove the rig or casing therefrom.

#### **Commencement of drilling.**

SEC. 17. The owner or operator of any well referred to in this act shall, before commencing the work of drilling an oil or gas well, file with the supervisor, or his local deputy, a written notice of intention to commence drilling. Such notice shall also contain the following information: (1) Statement of location and elevation above sea level of the floor of the proposed derrick and drill rig; (2) the number or other designation by which such well shall be known, which number or designation shall not be changed after filing the notice provided for in this section, without the written consent of the supervisor being obtained therefor; (3) the owner's or operator's estimate of the depth of the point at which water will be shut off, together with the method by which such shut-off is intended to be made and the size and weight of casing to be used; (4) the owner's or operator's estimate of the depth at which oil or gas producing sand or formation will be encountered.

After the completion of any well the provisions of this section shall also apply, as far as may be, to the deepening or redrilling of any well, or any operation involving the plugging of any well or any operations permanently altering in any manner the casing of any well; *and provided, further*, that the number or designation by which any well heretofore drilled has been known, shall not be changed without first obtaining a written consent of the supervisor.

#### **Log of well. Prospect well.**

SEC. 18. It shall be the duty of the owner or operator of any well referred to in this act, to keep a careful and accurate log of the drilling of such well, such log to show the character and depth of the formation passed through or encountered in the drilling of such well, and particularly to show the location and depth of the water-bearing strata, together with the character of the water encountered from time to time (so far as ascertained) and to show at what point such water was shut off, if at all, and if not, to so state in such log, and show completely the amounts, kinds and size of casing used, and show the depth at which oil-bearing strata are encountered, the depth and character of same, and whether all water overlying and underlying such

oil-bearing strata was successfully and permanently shut off so as to prevent the percolation or penetration into such oil-bearing strata; such log shall be kept in the local office of the owner or operator, and together with the tour reports of said owner or operator, shall be subject, during business hours, to the inspection of the supervisor, or any of his deputies, or any of the commissioners of the district, except in the case of a prospect well as hereinafter defined. Upon the completion of any well, or upon the suspension of operations upon any well, for a period of six months if it be a prospect well, or for thirty days, if it be in proven territory, a copy of said log in duplicate, and in such form as the supervisor may direct, shall be filed within ten days after such completion, or after the expiration of said thirty-day period, with the field supervisor, and a like copy shall be filed upon the completion of any additional work in the deepening of any such well.

The state oil and gas supervisor shall determine and designate what wells are prospect wells within the meaning of this act and no reports shall be required from such prospect wells until six months after the completion thereof.

The owner or operator of any well drilled previous to the enactment of this act shall furnish to the supervisor or his deputy a complete and correct log in duplicate and in such form as the supervisor may direct, or his deputy, of such well, so far as may be possible, together with a statement of the present condition of said well.

#### **Test of shut-off.**

SEC. 19. It shall be the duty of the owner or operator of any well referred to in this act to notify the deputy supervisor of the time at which the owner or operator shall test the shut-off of water in any such well. Such notice shall be given at least five days before such test. The deputy supervisor or an inspector designated by the supervisor shall be present at such test and shall render a report in writing of the result thereof to the supervisor, a duplicate of which shall be delivered to the owner. If any test shall be unsatisfactory to the supervisor he shall so notify the owner or operator in said report and shall within five days after the completion of such test, order additional tests of such work as he deems necessary to properly shut off the water in such well and in such order shall designate a day upon which the owner or operator shall again test the shut-off of water in any such well, which day may, upon the application of the owner, be changed from time to time in the discretion of the deputy supervisor.

#### **Production reports.**

SEC. 20. It shall be the duty of every person, association or corporation producing oil in the State of California, to file with the supervisor, at his request but not oftener than once in each month, a statement showing amount of oil produced during the period indicated from each well, together with its gravity and the amount of water produced from each well, estimated in accordance with methods approved by the supervisor, and the number of days during which fluid was produced from each well, the number of wells drilling, producing, idle or abandoned, owned or operated by said person, association or corporation; *provided*, that, upon request and satisfactory showing a longer interval may be fixed by the state oil and gas supervisor as to such reports in the case of any specific owner or operator.

This information shall be in such form as the supervisor may designate.

#### **Penalty.**

SEC. 21. Any owner or operator of a well referred to in this act, or employee thereof, who refuses to permit the supervisor, or his deputy, to inspect the same, or who wilfully hinders or delays the enforcement of this act, and every person, firm, or corporation, who violates any provision of this act, is guilty of a misdemeanor and shall be punishable by a fine of not less than one hundred dollars, or by imprisonment in the county jail for not less than thirty days, or by both such fine and imprisonment.

#### **Police power of the state.**

SEC. 21a. The charges hereinafter provided for are directed to be levied by the State of California as necessary in the exercise of its police power and to provide a

means by which to supervise and protect deposits of petroleum and gas within the State of California, in which deposits the people of the State of California are hereby declared to have a primary and supreme interest.

**Charges assessed.**

SEC. 22. Charges levied, assessed and collected as hereinafter provided upon the properties of every person, firm, corporation or association operating any well or wells for the production of petroleum in this state, or operating any well or wells for the production of natural gas in this state which gas wells are situate on lands situate within two miles, as near as may be, of any petroleum or gas well the production of which is chargeable under this act, shall be used exclusively for the support and maintenance of the department of petroleum and gas hereinbefore created, and shall be assessed and levied by the state mineralogist, and collected in the manner hereinafter provided.

**Charges on oil.**

SEC. 23. Every person, firm, corporation or association operating any petroleum well or wells in this state shall annually pay a charge to the state treasurer at a uniform rate per barrel of petroleum produced for the preceding calendar year at the time and in the manner hereinafter provided, based upon a verified report as herein provided.

**Charges on gas.**

SEC. 24. Every person, firm, corporation or association operating any gas well or wells in this state shall annually pay a charge to the state treasurer based upon the amount of gas sold in the preceding calendar year, at a fixed rate per thousand cubic feet, at the times and in the manner hereinafter provided, based upon a verified report as herein provided.

**Charges on land.**

SEC. 25. Every person, firm, corporation or association owning any oil land, as determined by the supervisor, shall annually pay a charge to the state treasurer at the time and in the manner hereinafter provided, which charge shall be a uniform rate per acre. Said charge shall be based upon a verified report as provided herein; *provided, however*, that such lands so assessed shall not be called upon to pay more than one-tenth of the total charges or moneys proposed to be assessed, levied and collected under the provisions of this act for any one year.

SEC. 26. The charges assessed, levied and to be collected under the provisions of this act shall be in addition to any and all charges, taxes, assessments or licenses of any kind or nature paid by or upon the properties assessed hereunder.

**Annual financial estimate.**

SEC. 27. The state mineralogist shall annually, on or before the first Monday in March, acting in conjunction with the state board of control, make an estimate of the amount of moneys which shall be required to carry out the provisions of this act.

At the time of making such estimate, the state mineralogist shall report to the state board of control the amount of money in the petroleum and gas fund on the day such estimate is made, less the amount of money necessary for the support of the department of petroleum and gas for the remainder of the fiscal year, and the amount of such estimate shall in no event exceed the difference between the amount thus determined as remaining in the petroleum and gas fund at the end of the fiscal year and the sum of one hundred fifty thousand dollars.

**Annual reports by owners.**

SEC. 28. The state mineralogist shall prescribe the form and contents of all reports for making the charge or other purposes to carry out the intent and provision of this act, which form shall be mailed in duplicate to the person, firm, corporation or association owning property or assessed under the provisions of this act.

SEC. 29. Every person, firm, corporation or association chargeable under the provisions of this act, shall within ten days after the first Monday in March of



each year, report to and file with the state mineralogist, a report in such form as said officer may prescribe, giving any and all items of information as may be demanded by said report, and necessary to carry out the provisions of this act, which report shall be verified by such person or officer as the state mineralogist may designate.

**SEC. 30.** If any person, firm, corporation or association chargeable under the provisions of this act shall fail or refuse to furnish the state mineralogist within the time prescribed in this act the verified report provided for in this act, the state mineralogist must note such failure or refusal in the record of assessments hereinafter in this act provided for, and must make an estimate of the petroleum or gas production, or landed area to be assessed of any such person, firm, corporation or association and must assess the same at the amount thus estimated and compute the charge thereon, which assessment and charge shall be the assessment and charge for such year. And if in the succeeding year any such person, firm, corporation or association shall again fail and refuse to furnish the verified report required by this act, the state mineralogist shall make an estimate as aforesaid, which estimate shall not be less than twice the amount of the estimate made by him for the previous year, and shall note such failure or refusal as above provided, and the said estimate so made shall be the assessment or charge for said year. In case of each succeeding consecutive failure or refusal the said state mineralogist shall follow the same procedure until a true statement or report shall be furnished.

#### **Penalty.**

**SEC. 31.** Any person, firm, corporation or association failing or refusing to make or furnish any report which may be required pursuant to the provisions of this act, or who wilfully renders a false or fraudulent report, shall be guilty of a misdemeanor and subject to a fine of not less than three hundred dollars, nor more than one thousand dollars, or by imprisonment in the county jail not exceeding six months, or both such fine and imprisonment for each such offense.

#### **Extension date filing reports.**

**SEC. 32.** The state mineralogist may, for good cause shown, by order entered upon his minutes, extend for not exceeding thirty days, the time fixed in this act for filing any report herein provided for.

#### **Rate of assessment.**

**SEC. 33.** On or before the third Monday before the first Monday in July of each year, the state mineralogist shall determine the rate or rates which shall produce the sums necessary to be raised as provided in section twenty-seven of this act. Within the same time the said state mineralogist shall extend into the proper column of the record of assessments hereinafter provided for, the amount of charges due from each person, firm, corporation or association.

**SEC. 34.** Between the first Monday in March and the third Monday before the first Monday in July in each year, the state mineralogist must assess and levy the charges as and in the manner provided for in this act. The assessments must be made to the person, firm, corporation or association owning or operating the property subject to assessment hereunder on the first Monday in March. If the name of the owner is unknown to the state mineralogist, such assessment must be made to unknown owners. Clerical errors occurring or appearing in the name of any person, firm, corporation or association whose property is properly assessed and charged, or in the making, or extension of any assessment or charge upon the records, which do not affect the substantial rights of the payer, shall not invalidate the assessment or charge.

#### **Equalization.**

**SEC. 35.** The state mineralogist and the chairman of the state board of control and the chairman of the state board of equalization shall constitute a board of review, correction and equalization, and shall have all the powers and perform such duties as usually devolve upon a county board of equalization under the provisions

of section three thousand six hundred seventy-two of the Political Code. The state mineralogist shall act as secretary of said board, and shall keep an accurate minute of the proceedings thereof. Said board of review, correction and equalization shall meet at the state capitol on the third Monday before the first Monday in July of each year, and remain in session from day to day until the first Monday in July for the purpose of carrying out the provisions of this section.

**Publication of assessment notice.**

SEC. 36. On the third Monday before the first Monday in July of each year the state mineralogist shall cause to be published a notice, one or more times, in a daily, or weekly, or semiweekly newspaper of general circulation published in the counties of Fresno, Kern, Los Angeles, Orange, Ventura and Santa Barbara, and such other counties as may contain lands or produce oil or gas charged under and pursuant to the terms and provisions of this act, if one be published therein, otherwise in a newspaper of general circulation published in the county nearest to such county designated herein in which no such paper is published, that the assessment of property and levy of charges under and in pursuance of this act has been completed and that the records of assessments containing the charges due will be delivered to the state controller on the first Monday in July, and that if any person, firm, corporation or association is dissatisfied with the assessment made or charge fixed by the state mineralogist, he or it may, at any time before said first Monday in July, apply to said board of review, correction and equalization to have the same corrected in any particular. The said board shall have the power at any time before said first Monday in July to correct the record of assessments and may increase or decrease any assessment or charge therein if in its judgment the evidence presented or obtained warrants such action. Costs of such publication in any county shall be paid from the petroleum and gas fund; *provided, however*, that the omission to publish said notice as hereinbefore and in this section provided, shall not affect the validity of any assessment levied under or pursuant to the provisions of this act.

**Record of assessment.**

SEC. 37. The state mineralogist must prepare each year a book in one or more volumes, to be called the "Record of assessments and charges for the petroleum and gas fund," in which must be entered, either in writing or printing, or both writing and printing, each assessment and levy or charge made by him upon the property provided to be assessed and charged under this act, describing the property assessed, and such assessments may be classified and entered in such separate parts of said record as said state mineralogist shall prescribe.

SEC. 38. On the first Monday in July the state mineralogist must deliver to the state controller the record of assessments and charges for the petroleum and gas fund, certified to by said state mineralogist, which certificate shall be substantially as follows: "I, \_\_\_\_\_, state mineralogist, do hereby certify that between the first Monday in March and the first Monday in July, 19\_\_\_\_, I made diligent inquiry and examination to ascertain all property and persons, firms, corporations and associations subject to assessment for the purpose of the petroleum and gas fund as required by the provisions of the act of legislature approved June 10, 1915, providing for the assessment and collection of charges for oil protection; that I have faithfully complied with all the duties imposed upon me by law; that I have not imposed any unjust or double assessment through malice or ill will, or otherwise; nor allowed any person, firm, corporation or association or property to escape a just assessment or charge through favor or regard, or otherwise." But the failure to subscribe such certificate to such record of assessments and charges for oil protection, or any certificate, shall not in any manner affect the validity of any assessment or charge.

**Payment of charges.**

SEC. 39. The charges levied and assessed under the provisions of this act shall be due and payable on the first Monday in July in each year, and one-half thereof shall be delinquent on the sixth Monday after the first Monday in July at six o'clock p.m. and unless paid prior thereto, fifteen per cent shall be added to the amount thereof, and unless paid prior to the first Monday in February next thereafter at

six o'clock p.m., an additional five per cent shall be added to the amount thereof, and the unpaid portion, or the remaining one-half of said charges shall become delinquent on the first Monday in February next succeeding the day upon which they become due and payable, at six o'clock p.m.; and if not paid prior thereto five per cent shall be added to the amount thereof.

**Publication of notice of payments due.**

SEC. 40. Within ten days after the receipt of the record of assessments and charges for oil protection, the state controller must begin the publication of a notice to appear daily for five days, in one daily newspaper of general circulation published in each of the counties of Fresno, Kern, Los Angeles, Orange, Ventura and Santa Barbara, and such other counties as may contain lands or produce oil or gas charged under or pursuant to the terms and provisions of this act, if one be published therein, otherwise for at least two times in a weekly or semiweekly paper of general circulation published therein, or if there be neither a daily nor weekly nor semiweekly paper of general circulation published in any one of such counties, then the publication of the notice for such county shall be made in a similar manner in a newspaper of general circulation published in the county nearest such county, specifying: (1) That he has received from the state mineralogist the record of assessments and charges for oil protection; (2) that the charges therein assessed and levied are due and payable on the first Monday in July and that one-half thereof will be delinquent on the sixth Monday after the first Monday in July at six o'clock p.m., and that unless paid to the state treasurer at the capital prior thereto, fifteen per cent will be added to the amount thereof, and unless paid prior to the first Monday in February next thereafter at six o'clock p.m., and additional five per cent will be added to the amount thereof; and that the remaining one-half of said charges will become delinquent on the first Monday in February next succeeding the day upon which they become due and payable, at six o'clock p.m. and if not paid to the state treasurer at the capital prior thereto, five per cent will be added to the amount thereof. Costs of such publication in any county shall be paid from the petroleum and gas fund.

**Charges become lien.**

SEC. 41. The assessments and charges levied under the provisions of this act shall constitute a lien upon all the property of every kind and nature belonging to the persons, firms, corporations and associations assessed under the provisions hereof, which lien shall attach on the first Monday in March of each year. Such lien shall be enforced and said charges collected by an action by the state controller as provided in section forty-four of this act.

**Charges payable to treasurer.**

SEC. 42. All charges assessed and levied under the provisions of this act shall be paid to the state treasurer upon the order of the state controller. The controller must mark the date of payment of any charge on the record of assessments for the petroleum and gas fund and shall give a receipt for such payment in such form as the controller may prescribe. Errors appearing upon the face of any assessment on said record of assessments or over charges may be corrected by the controller by and with the consent of the state board of control, in such manner and at such time as said controller and said board shall agree upon.

**Protest of charges.**

SEC. 43. Any person, firm, corporation or association claiming and protesting as herein provided that the assessment made or charges assessed against him or it by the state mineralogist is void, in whole or in part, may bring an action against the state treasurer for the recovery of the whole or any part of such charges, penalties or costs paid on such assessment, upon the grounds stated in said protest, but no action may be brought later than the third Monday in February next following the day upon which the charges were due, nor unless such person, firm, corporation or association shall have filed with the state controller at the time of payment of such charges, a written protest stating whether the whole assessment or charge is claimed

to be void, or if a part only, what part, and the grounds upon which such claim is founded, and when so paid under protest the payment shall in no case be regarded as voluntary.

Whenever, under the provisions of this section, an action is commenced against the state treasurer, a copy of the complaint and of the summons must be served upon the treasurer, or his deputy. At the time the treasurer demurs or answers, he may demand that the action be tried in the superior court of the county of Sacramento, which demand must be granted. The attorney employed by the state oil and gas supervisor must defend such action; *provided, however*, the said mineralogist may at the request of the said oil and gas supervisor employ additional counsel, the expense of which employment shall be paid from the petroleum and gas fund. The provisions of the Code of Civil Procedure relating to pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for.

A failure to be in such action within the time herein specified shall be a bar against the recovery of such charges. In any such action the court shall have the power to render judgment for the plaintiff for any part or portion of the charge, penalties, or costs found to be void and so paid by plaintiff upon such assessment.

#### **Delinquent charges.**

SEC. 44. The state controller shall, on or before the thirtieth day of May next following the delinquency of any charge as provided in this act, bring an action in a court of competent jurisdiction, in the name of the people of the State of California, in the county in which the property assessed is situated, to collect any delinquent charges or assessments, together with any penalties or costs, which have not been paid in accordance with the provisions of this act and appearing delinquent upon the records of assessments and charges for the petroleum and gas fund in this action provided for.

The attorney for the state oil and gas supervisor shall commence and prosecute such action to final judgment and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings herein provided for. The state mineralogist may employ additional counsel to assist the attorney for the state oil and gas supervisor, and the expense of such employment shall be paid from the petroleum and gas fund.

Payments of the penalties and charges, or amount of the judgment recovered in such action must be made to the state treasurer. In such actions the record of assessment and charges for oil protection, or a copy of so much thereof as is applicable in said action, duly certified by the controller showing unpaid charges against any person, firm, corporation or association assessed by the state mineralogist is prima facie evidence of the assessment upon the property, the delinquency, the amount of charges, penalties, and costs due and unpaid to the state, and that the person, firm, corporation or association is indebted to the people of the State of California in the amount of charges and penalties therein appearing unpaid and that all the forms of law in relation to the assessment of such charges have been complied with.

#### **First assessment, March, 1916.**

SEC. 45. The first assessment under the provisions of this act shall be as of the first Monday in March, nineteen hundred sixteen, and the reports of petroleum production and sales of gas herein provided to be assessed shall be reported for the calendar year ending December thirty-first, nineteen hundred fifteen. The lands herein provided to be assessed and charged shall be assessed to the owners thereof as of the first Monday in March, nineteen hundred sixteen.

#### **Disposal of funds.**

SEC. 46. All the moneys heretofore paid to the state treasurer under or pursuant to the provisions of this act and deposited to the credit of the oil protection fund, shall be withdrawn from said fund, which is hereby abolished, and deposited to the credit of the petroleum and gas fund which is hereby created. All of the moneys hereafter paid to the state treasurer under or pursuant to the provisions of this act shall be deposited to the credit of the petroleum and gas fund. All moneys in such

fund shall be expended under the direction of the state mineralogist, drawn from such fund for the purpose of this act upon warrants drawn by the controller of the state, upon demands made by the state mineralogist, and audited by the state board of control. Of the moneys in said petroleum and gas fund, when such action has been authorized by the state board of control, the state mining bureau may withdraw, without at the time furnishing vouchers and itemized statements, a sum not to exceed five hundred dollars, said sum so drawn to be used as a revolving fund where cash advances are necessary. At the close of each fiscal year, or at any other time, upon demand of the board of control, the moneys so drawn shall be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the board of control.

SEC. 47. All moneys received in repayment of repair work done under the order and direction of the supervisor as hereinbefore provided, shall be returned and credited to the petroleum and gas fund.

#### **Annual report by supervisor.**

SEC. 48. On or before the first day of October of each and every year the supervisor shall submit a report in writing to the state mineralogist showing the total number of barrels of petroleum produced in each county in the state during the previous calendar year, together with the total cost of said department for the previous fiscal year and the net amount remaining in the petroleum and gas fund available for the succeeding fiscal year's expense, also the total amount delinquent and uncollected from any assessments or charges levied under or pursuant to the provisions of this act. Such report shall also include such other information as the supervisor may deem advisable. The state mineralogist shall make public such statements promptly after receipt of the same from the supervisor for the benefit of all parties interested therein.

#### **Recording of leases.**

SEC. 49. The owner or operator of any lands or tenements subject to assessment under this act shall, within six months after this act goes into effect, file with the supervisor a certificate which shall contain the names of all the parties claiming an interest in or to said lands and full description of the property and the names of all parties in interest where such interest is held by lease, license or assignment.

#### **Definitions.**

SEC. 50. Whenever the term "supervisor" is used in this act it shall be taken to mean the "state oil and gas supervisor," the term "oil" shall include "petroleum," the term "petroleum" shall include "oil," the term "gas" shall mean natural gas coming from the earth, the term "operator" shall mean any person, firm or corporation drilling, maintaining, operating, pumping, or in control of a well in any territory which the supervisor determines to be oil or gas producing territory, the term "owner" shall include "operator" when any oil or gas well is operated or has been operated or is about to be operated by any person, firm or corporation other than the owner thereof, and the term "operator" shall include "owner" when any such well is or has been or is about to be operated by or under the direction of the owner, except that all the provisions of this act relating to assessments for the purposes of this act based upon the annual production of oil or petroleum or sale of gas, as set forth in sections twenty-two to forty-five, inclusive of this act, shall apply only to a person, firm or corporation operating an oil or petroleum or gas well, and shall not apply to the owner of such well if some person, firm or corporation, other than such owner, has been actually operating the well during the whole period for which such annual charge is made, but in the event that the actual operation of any such well changes hands during such period, the charge shall be apportioned upon the basis of the oil or petroleum or gas produced, and the lien provided for in section forty-one of this act shall be a lien against the property of each and all such operators.

#### **Appropriation first year.**

SEC. 51. There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of twenty thousand dollars which said sum

shall be immediately transferred by the state controller on the books of his office from the general fund to the "oil protection fund" created by section forty-six of this act.

The above mentioned fund shall be available for the uses of the state mineralogist for the maintenance of the department of petroleum and gas and for the necessary expenses of the controller in carrying out the provisions of this act. When the collections paid to the state treasurer, as herein provided, equal the sum of thirty thousand dollars then said sum of twenty thousand dollars shall be re-transferred from the oil protection fund to the general fund. The moneys received into the state treasury through the provisions of this act are hereby appropriated for the uses and purposes herein specified.

**Constitutionality.**

SEC. 52. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

**Incorporated cities.**

SEC. 53. This act shall be liberally construed to meet its purposes and the supervisor shall have all powers which may be necessary to carry out the purposes of this act, but the provisions of this act shall not apply to any land or wells situated within the boundaries of an incorporated city where the drilling of oil wells is prohibited.

**Repeal of previous law.**

SEC. 54. That certain act entitled "An act to prevent injury to oil, gas or petroleum-bearing strata or formations by the penetration or infiltration of water therein," approved March 20, 1909, together with all acts amendatory thereof and supplemental thereto and all acts in conflict herewith are hereby repealed. Nothing herein shall be construed as affecting the provisions of the act of June 16, 1913, establishing a state mining bureau.

## FEDERAL STATUTES.

## Title XXXII, Chapter 6, Revised Statutes.

SEC. 2319. All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

**Lode Claims.**

SEC. 2320. Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the tenth day of May, eighteen hundred and seventy-two, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the tenth day of May, eighteen hundred and seventy-two, render such limitation necessary. The end lines of each claim shall be parallel to each other.

**Citizenship.**

SEC. 2321. Proof of citizenship, under this chapter, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge, or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any state or territory thereof, by the filing of a certified copy of their charter or certificate of incorporation.

This is supplemented by an act of April 26, 1882, which provides:

"That applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record, or before any notary public of any state or territory." (22 Stats. at Large, p. 49, chap. 106.)

**Extra-lateral Rights.**

SEC. 2322. The locators of all mining locations heretofore made or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claims exist on the tenth day of May, eighteen hundred and seventy-two, so long as they comply with the laws of the United States, and with state, territorial and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize the locator or possessor of a vein, or lode which extends in its downward course beyond the vertical lines of his claim, to enter upon the surface of a claim owned or possessed by another.

**Tunnel Claims.**

SEC. 2323. Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid, but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel.

**Recording and Annual Assessments.**

SEC. 2324. The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the state or territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the tenth day of May, eighteen hundred and seventy-two, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year.

*Be it enacted by the senate and house of representatives of the United States of America in congress assembled, that section two thousand, three hundred and twenty-four of the Revised Statutes be, and the same is hereby, amended so that where a person or company has or may run a tunnel for the purpose of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since the passage of said act; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by said act. (18 Stats. at Large, page 315, chap. 41.)*

An amendment of January 22, 1880, reads:

*"Provided, that the period within which the work required to be done annually on all unpatented mineral claims shall commence on the first day of January succeeding the date of location of such claim, and this section shall apply to all claims located since the tenth day of May, Anno Domini eighteen hundred and seventy-two." (21 Stats. at Large, page 61, chap. 9.)*

The federal law fixes the minimum of labor requirements. State and local laws may require additional work as part of the act of location. This has been sustained by Supreme Court decisions.

**Patents.**

Section 2325 of the federal statutes provides that after \$500 has been expended on a mining claim in work or improvements, a patent can be applied for, upon the claim being surveyed by a United States mineral surveyor, and by the payment of \$5 per acre for the land to the United States government.

**PLACERS.**

SEC. 2329. Claims usually called "placers" including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands.



**Areas of Placer Claims.**

**SEC. 2330.** Legal subdivisions of forty acres may be subdivided into ten-acre tracts, and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the ninth day of July, eighteen hundred and seventy, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide preemption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

**SEC. 2331.** Where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims located after the tenth day of May, eighteen hundred and seventy-two, shall conform as near as practicable with the United States system of public lands surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims can not be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead or preemption purposes.

**Placer boundaries.**

**SEC. 2333.** Where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of this chapter, including such vein or lode upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section twenty-three hundred and twenty, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

**Entry of building stone lands under placer laws.**

[Act of August 4, 1892, ch. 375, 27 Stat. L. 348.]

**SECTION 1.** Any person authorized to enter lands under the mining laws of the United States may enter lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims; *provided*, that lands reserved for the benefit of the public schools or donated to any state shall not be subject to entry under this act. (27 Stat. L. 348.)

**Entry of saline lands under placer laws.**

[Act of January 31, 1901, ch. 186, 31 Stat. L. 745.]

All unoccupied public lands of the United States containing salt springs, or deposits of salt in any form, and chiefly valuable therefor, are hereby declared to be subject to location and purchase under the provisions of the law relating to placer mining claims; *provided*, that the same person shall not locate or enter more than one claim hereunder. (31 Stat. L. 745.)

**Substances locatable as placers.**

Lindley on Mines, 3d ed., 1914, Sec. 420, pp. 987, *et seq.* says: "Among the substances, other than those of a metallic character, which have been classified as mineral, and when occurring in the form of deposits not in place, lands containing

which have been held to be subject to appropriation under the placer laws, we note the following: Alum; asphaltum; borax; diamonds; guano; gypsum; kaolin or china clay; marble; mica; onyx; soda, carbonate or nitrate; slate for roofing purposes; umber; building stone. \* \* \* Other substances require specific mention." Under these "other substances," are detailed: Petroleum; natural gas; brick and other classes of clay; phosphates; potash. In addition to the above named the following have also "been held to be mineral by the United States Land Department and the American courts: Amber; stone of special commercial value; cement (see gypsum); coal; gravel; limestone; salt; sand; sandstone (see building stone); sulphur." (Id. Sec. 97, pp. 170, *et seq.*)

#### Mining claims on stream beds.

Gravel deposits on the beds of watercourses may be appropriated under the placer laws, if the stream is not a navigable one. The beds of navigable "rivers and their banks as far as high-water mark, in some states as far as low-water mark, belong to the state, and not to the federal government. \* \* \* The state may grant temporary privileges, or perhaps permanent rights, of dredging or carrying on other mining operations in the beds of navigable waters; *provided*, that such operations do not interfere with the public rights of navigation or the private rights of riparian owners." (Id. Sec. 428, pp. 1012, 1013.)

#### Tide Lands—Mining claims can not be located on.

"There is no principle involved in the consideration of the public land system better settled or more clearly enunciated than that lands under tidal waters, and below the line of ordinary high tide, are not 'public lands'." Such belong to the state, subject, however, to the public right of navigation. In the cases of the beach placers of Nome, Alaska, and the oil wells below high tide at Summerland, California, the secretary of war issued permits for "operations in the navigable waters of the United States," but such permits did not confer "any rights as against the littoral owner." (Id. Sec. 429, p. 1017.)

### OIL AND GAS CLAIMS.

These are located as placer claims. See sections 2329 to 2333 U. S. statutes.

#### An act authorizing entry of petroleum or other mineral oil lands under placer claim laws.

Any person authorized to enter lands under the mining laws of the United States may enter and obtain patents to lands containing petroleum or other mineral oils, and chiefly valuable therefor, under the provisions of the laws relating to placer mineral claims; *provided*, that lands containing such petroleum or other mineral oils which have heretofore been filed upon, claimed, or improved as mineral, but not yet patented, may be held and patented under the provisions of this act the same as if such filing, claim or improvement were subsequent to the date of the passage hereof. (29 Stat. L. 526.) Approved Feb. 11, 1897.

#### An act defining what shall constitute assessments on oil mining claims.

[Act of February 12, 1903, ch. 548, 32 Stat. L. 825.]

Where oil lands are located under the provisions of title thirty-two, chapter six, Revised Statutes of the United States, as placer mining claims, the annual assessment labor upon such claims may be done upon any one of a group of claims lying contiguous and owned by the same person or corporation, not exceeding five claims in all; *provided*, that said labor will tend to the development or to determine the oil-bearing character of such contiguous claims.

## THE "PICKET BILL."

An act to authorize the President of the United States to make withdrawals of public lands in certain cases.

This provides also:

SEC. 2. All lands withdrawn under the provisions of this act shall at all times be open to exploration, discovery, occupation, and purchase, under the mining laws of the United States, so far as the same apply to minerals other than coal, oil, gas, and phosphates.

By the amendment of August 24, 1912, congress limited the right of exploration etc., within the withdrawn areas, to those lands which may be found to contain *metal-liferous* mineral. The scope of withdrawal was thus broadened, with the specific intention of conserving *potash* in addition to those minerals already mentioned. (37 Stats. at Large.)

However, any of these minerals except potash may be filed upon if found in areas of the public domain *not yet withdrawn*.

## POTASH EXPLORATION.

(S. B. No. 2156.)

An act to authorize exploration for and disposition of potassium.

[Approved by the President, October 2, 1917.]

*Be it enacted by the senate and house of representatives of the United States of America in congress assembled*, That the Secretary of the Interior is hereby authorized and directed, under such rules and regulations as he may prescribe, to issue to any applicant who is a citizen of the United States, an association of such citizens, or a corporation organized under the laws of any State or Territory thereof, a prospecting permit which shall give the exclusive right, for a period not exceeding two years, to prospect for chlorides, sulphates, carbonates, borates, silicates, or nitrates of potassium on public lands of the United States, except lands in and adjacent to Searles Lake, which would be described if surveyed as townships twenty-four, twenty-five, twenty-six, and twenty-seven south of ranges forty-two, forty-three, and forty-four east, Mount Diablo meridian, California: *Provided*, That the area to be included in such permit shall not exceed two thousand five hundred and sixty acres of land in reasonably compact form.

SEC. 2. That upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of one or more of the substances enumerated in section one hereof have been discovered by the permittee within the area covered by his permit, the permittee shall be entitled to a patent for not to exceed one-fourth of the land embraced in the prospecting permit, to be taken in compact form and described by legal subdivisions of the public-land surveys, or if the land be not surveyed, then in tracts which shall not exceed two miles in length, by survey executed at the cost of the permittee, in accordance with rules and regulations prescribed by the Secretary of the Interior. All other lands described and embraced in such a prospecting permit from and after the exercise of the right to patent accorded to the discoverer, and not covered by leases, may be leased by the Secretary of the Interior, through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such areas as he shall fix, not exceeding two thousand five hundred and sixty acres, all leases to be conditioned upon the payment by the lessee of such royalty as may be specified in the lease and which shall be fixed by the Secretary of the Interior in advance of offering the same, and which shall not be less than two per centum on the gross value of the output at the point of shipment, which royalty, on demand of the Secretary of the Interior, shall be paid in the product of such lease, and the payment in advance of a rental, which shall be not less than 25 cents per acre for the first year thereafter; not less than 50 cents per acre for the second, third, fourth, and fifth years, respectively; and not less than \$1 per acre for each and every year thereafter during the continuance of the lease, except that such rental for any year shall be credited against the royalties as they accrue for that year. Leases shall be for indeterminate periods, upon

condition that at the end of each twenty-year period succeeding the date of any lease such readjustment of terms and conditions may be made as the Secretary of the Interior may determine, unless otherwise provided by law at the time of the expiration of such periods, and a patentee under this section may also be a lessee: *Provided*, That the potash deposits in the public lands in and adjacent to Searles Lake in what would be if surveyed townships twenty-four, twenty-five, twenty-six, and twenty-seven south of ranges forty-two, forty-three, and forty-four east, Mount Diablo meridian, California, may be operated by the United States or may be leased by the Secretary of the Interior under the terms and provisions of this Act: *Provided further*, That the Secretary of the Interior may issue leases under the provisions of this Act for deposits of potash in public lands in Sweetwater County, Wyoming, also containing deposits of coal, on condition that the coal be reserved to the United States.

SEC. 3. That in addition to areas of such mineral land to be included in prospecting permits or leases the Secretary of the Interior, in his discretion, may issue to a permittee or lessee under this Act the exclusive right to use, during the life of the permit or lease, a tract of unoccupied nonmineral public land not exceeding forty acres in area for camp sites, refining works, and other purposes connected with and necessary to the proper development and use of the deposits covered by the permit or lease.

SEC. 4. That the Secretary of the Interior shall reserve the authority and shall insert in any preliminary permit issued under section one hereof appropriate provisions for its cancellation by him upon failure by the permittee or licensee to exercise due diligence in the prosecution of the prospecting work in accordance with the terms and conditions stated in the permit.

SEC. 5. That no person shall take or hold any interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease under the provisions hereof, which, together with the area embraced in any direct holding of a lease under this Act, or which, together with any other interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease under the provisions hereof, or otherwise, exceeds in the aggregate in any area fifty miles square an amount equivalent to the maximum number of acres allowed to any one lessee under this Act; that no person, association, or corporation holding a lease under the provisions of this Act shall hold more than a tenth interest, direct or indirect, in any other agency, corporate or otherwise, engaged in the sale or resale of the products obtained from such lease, and any violation of the provisions of this section shall be ground for the forfeiture of the lease or interest so held; and the interests held in violation of this provision shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property or some part thereof is located, except that any such ownership or interest hereby forbidden which may be acquired by descent, will, judgment, or decree may be held for two years, and not longer after its acquisition.

SEC. 6. That any permit, lease, occupation, or use permitted under this Act shall reserve to the Secretary of the Interior the right to permit for joint or several use such easements or rights of way upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this Act, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes: *Provided*, That said Secretary, in his discretion, in making any lease under this Act may reserve to the United States the right to dispose of the surface of the lands embraced within such lease under existing law or laws hereafter enacted, in so far as said surface is not necessary for use of the lessee in extracting and removing the deposits therein: *Provided further*, That if such reservation is made it shall be so determined before the offering of such lease; that the said Secretary, during the life of the lease, is authorized to issue such permits for easements herein provided to be reserved.

SEC. 7. That each lease shall contain provisions deemed necessary for the protection of the interests of the United States, and for the prevention of monopoly, and for the safeguarding of the public welfare.

SEC. 8. That any lease issued under the provisions of this Act may be forfeited and canceled by an appropriate proceeding in the United States district court for the district in which the property or some part thereof is located whenever the lessee fails to comply with any of the provisions of this Act, of the lease, or of the general regulations promulgated under this Act and in force at the date of the lease, and the lease may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions thereof.

SEC. 9. That the provisions of this Act shall also apply to all deposits of potassium salts in the lands of the United States which may have been or may be disposed of under laws reserving to the United States the potassium deposits with the right to prospect for, drill, mine, and remove the same, subject to such conditions as to the use and occupancy of the surface as are or may hereafter be provided by law.

SEC. 10. That all moneys received from royalties and rentals under the provisions of this Act, excepting those from Alaska, shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the Act of Congress approved June seventeenth, nineteen hundred and two, known as the reclamation Act, but after use thereof in the construction of reclamation works and upon return to the reclamation fund of any such moneys in the manner provided by the reclamation Act and Acts amendatory thereof and supplemental thereto, fifty per centum of the amounts derived from such royalties and rentals, so utilized in and returned to the reclamation fund shall be paid by the Secretary of the Treasury after the expiration of each fiscal year to the State within the boundaries of which the leased lands or deposits are or were located, said moneys to be used by such State or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools.

SEC. 11. That the Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this Act.

SEC. 12. That the deposits herein referred to, in lands valuable for such minerals, shall be subject to disposition only in the form and manner provided in this Act, except as to valid claims existent at date of the passage of this Act and thereafter maintained in compliance with the laws under which initiated, which claims may be perfected under such laws: *Provided*, That nothing in this Act shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee.

SEC. 13. That the Secretary of the Interior is hereby authorized and directed to incorporate in every lease issued under the provisions of this Act a provision reserving to the President the right to regulate the price of all mineral extracted and sold from the leased premises, which stipulation shall specifically provide that the price or prices fixed shall be such as to yield a fair and reasonable return to the lessee upon his investment and to secure to the consumer any of such products at the lowest price reasonable and consistent with the foregoing: *Provided*, That such lease issued under this Act shall also stipulate that the President shall have authority to so regulate the disposal of the potassium products produced under such lease as to secure its distribution and use wholly within the limits of the United States or its possessions.

### MINING CLAIMS IN FOREST RESERVES.

The congressional act of June 4, 1897, provides:

"It is not the purpose or intent of these provisions, or of the act providing for such reservations, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purposes."

\* \* \*

"Nor shall anything herein prohibit any person from entering upon such forest reservations for all proper and lawful purposes, including that of prospecting, locating and developing the mineral resources thereof; *provided*, that such persons comply with the rules and regulations covering such forest reservations."

\* \* \*

"And any mineral lands in any forest reservation which have been or may be shown to be such and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry notwithstanding any provisions herein contained."

Under these statutes it is now held by the land department that the forest reserves are open to the location of mining claims. There can be no doubt of the meaning of congress upon this subject: That lands within the forest reserves are subject to the operation of the mining laws.

### CALIFORNIA DEBRIS COMMISSION.

An act to create the California Debris Commission and regulate hydraulic mining in the State of California.

*Be it enacted by the senate and house of representatives of the United States of America in congress assembled*, That a commission is hereby created, to be known as the California Debris Commission, consisting of three members. The president of the United States shall by and with the advice and consent of the senate, appoint the commission from officers of the corps of engineers, United States army. Vacancies occurring therein shall be filled in like manner. It shall have the authority, and exercise the powers hereinafter set forth, under the supervision of the chief of engineers and direction of the secretary of war.

SEC. 2. That said commission shall organize within thirty days after its appointment by the selection of such officers as may be required in the performance of its duties, the same to be selected from the members thereof. The members of said commission shall receive no greater compensation than is now allowed by law to each, respectively, as an officer of said corps of engineers. It shall also adopt rules and regulations, not inconsistent with law, to govern its deliberations and prescribe the method of procedure under the provisions of this act.

SEC. 3. That the jurisdiction of said commission, in so far as the same affects mining carried on by the hydraulic process shall extend to all such mining in the territory drained by the Sacramento and San Joaquin river systems in the state of California. Hydraulic mining, as defined in section eight hereof, directly or indirectly injuring the navigability of said river systems, carried on in said territory other than as permitted under the provisions of this act is hereby prohibited and declared unlawful.

SEC. 4. That it shall be the duty of said commission to mature and adopt such plan or plans, from examinations and surveys already made and from such additional examinations and surveys as it may deem necessary, as will improve the navigability of all the rivers comprising said systems, deepen their channels, and protect their banks. Such plan or plans shall be matured with a view of making the same effective as against the encroachment of and damage from debris resulting from mining operations, natural erosion, or other causes, with a view of restoring, as near as practicable and the necessities of commerce and navigation demand, the navigability of said rivers to the condition existing in eighteen hundred and sixty, and permitting mining

by the hydraulic process, as the term is understood in said state, to be carried on, provided the same can be accomplished without injury to the navigability of said rivers or the lands adjacent thereto.

SEC. 5. That it shall further examine, survey, and determine the utility and practicability, for the purposes hereinafter indicated, of storage sites in the tributaries of said rivers and in the respective branches of said tributaries, or in the plains, basins, sloughs, and tule and swamp lands adjacent to or along the course of said rivers, for the storage of debris or water or as settling reservoirs, with the object of using the same by either or all of these methods to aid in the improvement and protection of said navigable rivers by preventing deposits therein of debris resulting from mining operations, natural erosion, or other causes, or for affording relief thereto in flood time and providing sufficient water to maintain scouring force therein in the summer season; and in connection therewith to investigate such hydraulic and other mines as are now or may have been worked by methods intended to restrain the debris and material moved in operating such mines by impounding dams, settling reservoirs, or otherwise, and in general to make such study of and researches in the hydraulic mining industry as science, experience and engineering skill may suggest as practicable and useful in devising a method or methods whereby such mining may be carried on as aforesaid.

SEC. 6. That the said commission shall from time to time note the conditions of the navigable channels of said river systems, by cross-section surveys or otherwise, in order to ascertain the effect therein of such hydraulic mining operations as may be permitted by its orders and such as is caused by erosion, natural or otherwise.

SEC. 7. That said commission shall submit to the chief of engineers for the information of the secretary of war, on or before the fifteenth day of November of each year a report of its labors and transactions, with plans for the construction, completion, and preservation of the public works outlined in this act, together with estimates of the cost thereof, stating what amounts can be profitably expended thereon each year. The secretary of war shall thereupon submit same to congress on or before the meeting thereof.

SEC. 8. That for the purposes of this act "hydraulic mining" and "mining by the hydraulic process," are hereby declared to have the meaning and application given to said terms in said state.

SEC. 9. That the individual proprietor or proprietors, or in case of a corporation its manager or agent appointed for that purpose, owning mining ground in the territory in the state of California mentioned in section three hereof, which it is desired to work by the hydraulic process, must file with said commission a verified petition, setting forth such facts as will comply with law and the rules prescribed by said commission.

SEC. 10. That said petition shall be accompanied by an instrument duly executed and acknowledged, as required by the law of the said state, whereby the owner or owners of such mine or mines surrender to the United States the right and privilege to regulate by law, as provided in this act, or any law that may hereafter be enacted, or by such rules and regulations as may be prescribed by virtue thereof the manner and method in which the debris resulting from the working of said mine or mines shall be restrained, and what amount shall be produced therefrom; it being understood that the surrender aforesaid shall not be construed as in any way affecting the right of such owner or owners to operate said mine or mines by any other process or method now in use in said state; *provided*, that they shall not interfere with the navigability of the aforesaid rivers.

SEC. 11. That the owners of several mining claims situated so as to require a common dumping ground or dam or other restraining works for the debris issuing therefrom in one or more sites may file a joint petition setting forth such facts in addition to the requirements of section nine hereof; and where the owner of a hydraulic mine or owners of several such mines have and use common dumping sites for impounding debris or as settling reservoirs which sites are located below the mine of an applicant not entitled to use same, such fact shall also be stated in said petition. Thereupon the same proceedings shall be had as provided for herein.

SEC. 12. A notice specifying briefly the contents of said petition and fixing a time previous to which all proofs are to be submitted shall be published by said commission in some newspaper or newspapers of general circulation in the communities interested in the matter set forth therein. If published in a daily paper such publication shall continue for at least ten days; if in a weekly paper in at least three issues of the same. Pending publication thereof said commission, or a committee thereof, shall examine the mine and premises described in such petition. On or before the time so fixed all parties interested, either as petitioners or contestants, whether miners or agriculturists, may file affidavits, plans, and maps in support of their respective claims. Further hearings, upon notice to all parties of record, may be granted by the commission when necessary.

SEC. 13. That in case a majority of the members of said commission, within thirty days after the time so fixed, concur in a decision in favor of the petitioner or petitioners, the said commission shall thereupon make an order directing the methods and specifying in detail the manner in which operations shall proceed in such mine or mines; what restraining or impounding works, if facilities therefor can be found, shall be built, and maintained; how and of what material; where to be located; and in general set forth such further requirements and safeguards as will protect the public interests and prevent injury to the said navigable rivers, and the lands adjacent thereto, with such further conditions and limitations as will observe all the provisions of this act in relation to the working thereof and the payment of taxes on the gross proceeds of the same; *provided*, that all expense incurred in complying with said order shall be borne by the owner or owners of such mine or mines.

SEC. 14. That such petitioner or petitioners must within a reasonable time present plans and specifications of all works required to be built in pursuance of said order for examination, correction, and approval by said commission; and thereupon work may immediately commence thereon under the supervision of said commission or representative thereof attached thereto from said corps of engineers, who shall inspect same from time to time. Upon completion thereof, if found in every respect to meet the requirements of the said order and said approved plans and specifications, permission shall thereupon be granted to the owner or owners of such mine or mines to commence mining operations, subject to the conditions of said order and the provisions of this act.

SEC. 15. That no permission granted to a mine owner or owners under this act shall take effect, so far as regards the working of a mine, until all impounding dams or other restraining works, if any are prescribed by the order granting such permission, have been completed and until the impounding dams or other restraining works or settling reservoirs provided by said commission have reached such a stage as in the opinion of said commission, it is safe to use the same; *provided, however*, that if said commission shall be of the opinion that the restraining and other works already constructed at the mine or mines shall be sufficient to protect the navigable rivers of said systems and the work of said commission, then the owner or owners of such mine or mines may be permitted to commence operations.

SEC. 16. That in case the joint petition referred to in section eleven hereof is granted, the commission shall fix the respective amounts to be paid by each owner of such mines toward providing and building necessary impounding dams or other restraining works. In the event of a petition being filed after the entry of such order, or in case the impounding dam or dams or other restraining works have already been constructed and accepted by said commission, the commission shall fix such amount as may be reasonable for the privilege of dumping therein, which amount shall be divided between the original owners of such impounding dams or other restraining works in proportion to the amount respectively paid by each party owning same. The expense of maintaining and protecting such joint dam or works shall be divided among mine owners using the same in such proportion as the commission shall determine. In all cases where it is practicable, restraining and impounding works are to be provided, constructed and maintained by mine owners near or below the mine or mines before reaching the main tributaries of said navigable waters.



SEC. 17. That at no time shall any more debris be permitted to be washed away from any hydraulic mine or mines situated on the tributaries of said rivers and the respective branches of each, worked under the provisions of this act, than can be impounded within the restraining works erected.

SEC. 18. That the said commission may at any time when the condition of the navigable rivers or when the capacities of all impounding and settling facilities erected by mine owners or such as may be provided by government authority require same, modify the order granting the privilege to mine by the hydraulic mining process so as to reduce amount thereof to meet the capacities of the facilities then in use, or, if actually required in order to protect the navigable rivers from damage, may revoke same until the further notice of the commission.

SEC. 19. That an intentional violation on the part of a mine owner or owners, company, or corporation, or the agents or the employees of either, of the conditions of the order granted pursuant to section thirteen, or such modifications thereof as may have been made by said commission, shall work a forfeiture of the privileges thereby conferred, and upon notice being served by the order of said commission upon such owner or owners, company or corporation, or agent in charge, work shall immediately cease. Said commission shall take necessary steps to enforce its orders in case of the failure, neglect, or refusal of such owner or owners, company, or corporation, or agents thereof, to comply therewith, or in the event of any person or persons, company or corporation working by said process in said territory contrary to law.

SEC. 20. That said commission, or a committee therefrom or officer of said corps assigned to duty under its orders, shall, whenever deemed necessary, visit said territory and all mines operating under the provisions of this act. A report of such examination shall be placed on file.

SEC. 21. That the said commission is hereby granted the right to use any of the public lands of the United States, or any rock, stone, timber, trees, brush, or material thereon or therein, for any of the purposes of this act; and the secretary of the interior is hereby authorized and requested, after notice has been filed with the commissioner of the general land office by said commission, setting forth what public lands are required by it under the authority of this section, that such land or lands shall be withdrawn from sale and entry under the laws of the United States.

SEC. 22. That any person or persons who wilfully or maliciously injure, damage, or destroy, or attempt to injure, damage or destroy, any dam or other work erected under the provisions of this act for restraining, impounding, or settling purposes, or for use in connection therewith, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed the sum of five thousand dollars or be imprisoned not to exceed five years, or by both such fine and imprisonment, in the discretion of the court. And any person or persons, company or corporation, their agents or employees, who shall mine by the hydraulic process directly or indirectly injuring the navigable waters of the United States, in violation of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court; *provided*, that this section shall take effect on the first day of May, eighteen hundred and ninety-three.

SEC. 23. That upon the construction by the said commission of dams or other works for the detention of debris from hydraulic mines and the issuing of the order provided for by this act to any individual, company, or corporation to work any mine or mines by hydraulic process, the individual, company, or corporation operating thereunder working any mine or mines by hydraulic process, the debris from which flows into or is in whole or in part restrained by such dams or other works erected by said commission, shall pay a tax of three per centum on the gross proceeds of his, their, or its mine so worked; which tax of three per centum shall be ascertained and paid in accordance with regulations to be adopted by the secretary of the treasury, and the treasurer of the United States is hereby authorized to receive the same. All sums of money paid into the treasury under this section shall be

set apart and credited to a fund to be known as the "Debris Fund," and shall be expended by said commission under the supervision of the chief of engineers and direction of the secretary of war, in addition to the appropriations made by law in the construction and maintenance of such restraining works and settling reservoirs as may be proper and necessary; *provided*, that said commission is hereby authorized to receive and pay into the treasury from the owner or owners of mines worked by the hydraulic process, to whom permission may have been granted so to work under the provisions thereof, such money advances as may be offered to aid in the construction of such impounding dams or other restraining works, or settling reservoirs, or sites therefor, as may be deemed necessary by said commission to protect the navigable channels of said river systems, on condition that all moneys so advanced shall be refunded as the said tax is paid into the said debris fund; *and provided, further*, that in no event shall the government of the United States be held liable to refund same except as directed by this section.

SEC. 24. That for the purpose of securing harmony of action and economy of expenditures in the work to be done by the United States and the state of California, respectively, the former in its plans for the improvement and protection of the navigable streams and to prevent the depositing of mining debris or other materials within the same, and the latter in its plans authorized by law for the reclamation, drainage, and protection of its lands, or relating to the working of hydraulic mines, the said commission is empowered to consult thereon with a commission of engineers of said state, if authorized by said state for said purpose, the result of such conference to be reported to the chief of engineers of the United States army, and if by him approved shall be followed by said commission.

SEC. 25. That said commission, in order that such material as is now or may hereafter be lodged in the tributaries of the Sacramento and San Joaquin river systems resulting from mining operations, natural erosion, or other causes, shall be prevented from injuring the said navigable rivers or such of the tributaries of either as may be navigable and the land adjacent thereto, is hereby directed and empowered, when appropriations are made therefor by law, or sufficient money is deposited for that purpose in said debris fund, to build at such points above the head of navigation in said rivers and on the main tributaries thereof, or branches of such tributaries, or at any place adjacent to the same, which in the judgment of said commission will effect said object (the same to be of such material as will insure safety and permanency), such restraining or impounding dams and settling reservoirs, with such canals, locks, or other works adapted and required to complete same. The recommendations contained in executive document numbered two hundred and sixty-seven, fifty-first congress, second session, and executive document numbered ninety-eight, forty-seventh congress, first session, as far as they refer to impounding dams, or other restraining works are hereby adopted, and the same are directed to be made the basis of operations. The sum of fifteen thousand dollars is hereby appropriated, from moneys in the treasury not otherwise appropriated, to be immediately available to defray the expenses of said commission.

Approved March 1, 1893.

## REGULATIONS FOR EXPLOSIVES.

[Public Resolution—No. 68—65th Congress—H. R. 3932.]

[Approved, October 6, 1917.]

An Act To prohibit the manufacture, distribution, storage, use and possession in time of war of explosives, providing regulations for the safe manufacture, distribution, storage, use, and possession of the same, and for other purposes.

*Be it enacted by the senate and house of representatives of the United States of America in congress assembled*, That when the United States is at war it shall be unlawful to manufacture, distribute, store, use, or possess powder, explosives, blasting supplies, or ingredients thereof, in such manner as to be detrimental to the public safety, except as in this Act provided.

SEC. 2. That the words "explosive" and "explosives" when used herein shall mean gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses, detonators, and other detonating agents, smokeless powders, and any chemical compound or mechanical mixture that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of, or any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb, but shall not include small arms or shotgun cartridges: *Provided*, That nothing herein contained shall be construed to prevent the manufacture, under the authority of the Government, of explosives for, their sale to or their possession by, the military or naval service of the United States of America.

SEC. 3. That the word "ingredients" when used herein shall mean the materials and substances capable by combination of producing one or more of the explosives mentioned in section one hereof.

SEC. 4. That the word "person," when used herein, shall include States, Territories, the District of Columbia, Alaska, and other dependencies of the United States, and municipal subdivisions thereof, individual citizens, firms, associations, societies and corporations of the United States and of other countries at peace with the United States.

SEC. 5. That from and after forty days after the passage and approval of this Act no person shall have in his possession or purchase, accept, receive, sell, give, barter or otherwise dispose of or procure explosives, or ingredients, except as provided in this Act: *Provided*, That the purchase or possession of said ingredients when purchased or held in small quantities and not used or intended to be used in the manufacture of explosives are not subject to the provisions of this Act: *Provided further*, That the superintendent, foreman, or other duly authorized employee, at a mine, quarry, or other work, may, when licensed so to do, sell or issue, to any workman under him, such an amount of explosives, or ingredients, as may be required by that workman in the performance of his duties, and the workman may purchase or accept the explosives, or ingredients, so sold or issued, but the person so selling or issuing same shall see that any unused explosives, or ingredients, are returned, and that no explosives, or ingredients, are taken by the workman to any point not necessary to the carrying on of his duties.

SEC. 6. That nothing contained herein shall apply to explosives or ingredients while being transported upon vessels or railroad cars in conformity with statutory law or Interstate Commerce Commission rules.

SEC. 7. That from and after forty days after the passage of this Act no person shall manufacture explosives unless licensed so to do, as hereinafter provided.

SEC. 8. That any licensee or applicant for license hereunder shall furnish such information regarding himself and his business, so far as such business relates to or is connected with explosives or ingredients at such time and in such manner as the Director of the Bureau of Mines, or his authorized representative, may request, excepting that those who have been or are at the time of the passage of this Act regularly engaged in the manufacture of explosives shall not be compelled to disclose secret processes, costs, or other data unrelated to the distribution of explosives.

SEC. 9. That from and after forty days after the passage and approval of this Act every person authorized to sell, issue, or dispose of explosives shall keep a complete itemized and accurate record, showing each person to whom explosives are sold, given, bartered, or to whom or how otherwise disposed of, and the quantity and kind of explosives, and the date of each such sale, gift, barter, or other disposition, and this record shall be sworn to and furnished to the Director of the Bureau of Mines, or his authorized representatives, whenever requested.

#### Licenses.

SEC. 10. That the Director of the Bureau of Mines is hereby authorized to issue licenses as follows:

(a) Manufacturer's license, authorizing the manufacture, possession, and sale, of explosives and ingredients.

(b) Vendor's license, authorizing the purchase, possession, and sale of explosives or ingredients.

(c) Purchaser's license, authorizing the purchase and possession of explosives and ingredients.

(d) Foreman's license, authorizing the purchase and possession of explosives and ingredients, and the sale and issuance of explosives and ingredients to workmen under the proviso to section five above.

(e) Exporter's license, authorizing the licensee to export explosives, but no such license shall authorize exportation in violation of any proclamation of the President issued under any Act of Congress.

(f) Importer's license, authorizing the licensee to import explosives.

(g) Analyst's, educator's, inventor's, and investigator's licenses, authorizing the purchase, manufacture, possession, testing, and disposal of explosives and ingredients.

SEC. 11. That the Director of the Bureau of Mines shall issue licenses, upon application duly made, but only to citizens of the United States of America, and to the subjects or citizens of nations that are at peace with them, and to corporations, firms, and associations thereof, and he may, in his discretion, refuse to issue a license, when he has reason to believe, from facts of which he has knowledge or reliable information, that the applicant is disloyal or hostile to the United States of America, or that, if the applicant is a firm, association, society, or corporation, its controlling stockholders or members are disloyal or hostile to the United States of America. The director may, when he has reason to believe on like grounds that any licensee is so disloyal or hostile, revoke any license issued to him. Any applicant to whom a license is refused or any licensee whose license is revoked by the said director may, at any time within thirty days after notification of the rejection of his application or revocation of his license, apply for such license or the cancellation of such revocation to the Council of National Defense, which shall make its order upon the director either to grant or to withhold the license.

SEC. 12. That any person desiring to manufacture, sell, export, import, store, or purchase explosives, or ingredients, or to keep explosives or ingredients in his possession, shall make application for a license, which application shall state, under oath, the name of the applicant; the place of birth; whether native born or naturalized citizen of the United States of America; if a naturalized citizen, the date and place of naturalization; business in which engaged; the amount and kind of explosives or ingredients which during the past six months have been purchased, disposed of, or used by him; the amount and kind of explosives or ingredients now on hand; whether sales, if any, have been made to jobbers, wholesalers, retailers, or consumers; the kind of license to be issued, and the kind and amount of explosives or ingredients to be authorized by the license; and such further information as the Director of the Bureau of Mines may, by rule, from time to time require.

Applications for vendor's, purchaser's, or foreman's licenses shall be made to such officers of the State, Territory, or dependency having jurisdiction in the district within which the explosives or ingredients are to be sold or used, and having the power to administer oaths as may be designated by the Director of the Bureau of Mines, who shall issue the same in the name of such director. Such officers shall be entitled to receive from the applicant a fee of 25 cents for each license issued. They shall keep an accurate record of all licenses issued in manner and form to be prescribed by the Director of the Bureau of Mines, to whom they shall make reports from time to time as may be by rule issued by the director required. The necessary blanks and blank records shall be furnished to such officers by the said director. Licensing officers shall be subject to removal for cause by the Director of the Bureau of Mines, and all licenses issued by them shall be subject to revocation by the director as provided in section eleven.

SEC. 13. That the President, by and with the advice and consent of the Senate, may appoint in each State and in Alaska an explosives inspector, whose duty it shall be, under the direction of the Director of the Bureau of Mines, to see that this Act

is faithfully executed and observed. Each such inspector shall receive a salary of \$2,400 per annum. He may at any time be detailed for service by said director in the District of Columbia or in any State, Territory, or dependency of the United States. All additional employees required in carrying out the provisions of this Act shall be appointed by the Director of the Bureau of Mines, subject to the approval of the Secretary of the Interior.

SEC. 14. That it shall be unlawful for any person to represent himself as having a license issued under this Act, when he has not such a license, or as having a license different in form or in conditions from the one which he in fact has, or without proper authority make, cause to be made, issue or exhibit anything purporting or pretending to be such license, or intended to mislead any person into believing it is such a license, or to refuse to exhibit his license to any peace officer, Federal or State, or representative of the Bureau of Mines.

SEC. 15. That no inspector or other employee of the Bureau of Mines shall divulge any information obtained in the course of his duties under this Act regarding the business of any licensee, or applicant for license, without authority from the applicant for license or from the Director of the Bureau of Mines.

SEC. 16. That every person authorized under this Act to manufacture or store explosives or ingredients shall clearly mark and define the premises on which his plant or magazine may be and shall conspicuously display thereon the words "Explosives—Keep Off."

SEC. 17. That no person, without the consent of the owner or his authorized agents, except peace officers, the Director of the Bureau of Mines and persons designated by him in writing, shall be in or upon any plant or premises on which explosives are manufactured or stored, or be in or upon any magazine premises on which explosives are stored; nor shall any person discharge any firearms or throw or place any explosives or inflammable bombs at, on, or against any such plant or magazine premises, or cause the same to be done.

SEC. 18. That the Director of the Bureau of Mines is hereby authorized to make rules and regulations for carrying into effect this Act, subject to the approval of the Secretary of the Interior.

SEC. 19. That any person violating any of the provisions of this Act, or any rules or regulations made thereunder, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$5,000 or by imprisonment not more than one year, or by both such fine and imprisonment.

SEC. 20. That the Director of the Bureau of Mines is hereby authorized to investigate all explosions and fires which may occur in mines, quarries, factories, warehouses, magazines, houses, cars, boats, conveyances, and all places in which explosives or the ingredients thereof are manufactured, transported, stored, or used, and shall, in his discretion, report his findings, in such manner as he may deem fit, to the proper Federal or State authorities, to the end that if such explosion has been brought about by a willful act the person or persons causing such act may be proceeded against and brought to justice; or, if said explosion has been brought about by accidental means, that precautions may be taken to prevent similar accidents from occurring. In the prosecution of such investigations the employees of the Bureau of Mines are hereby granted the authority to enter the premises where such explosion or fire has occurred, to examine plans, books, and papers, to administer oaths to, and to examine all witnesses and persons concerned, without let or hindrance on the part of the owner, lessee, operator, or agent thereof.

SEC. 21. That the Director of the Bureau of Mines, with the approval of the President, is hereby authorized to utilize such agents, agencies, and all officers of the United States and of the several States, Territories, dependencies, and municipalities thereof, and the District of Columbia, in the execution of this Act, and all agents, agencies, and all officers of the United States and of the several States and Territories, dependencies, and municipalities thereof, and the District of Columbia, shall hereby have full authority for all acts done by them in the execution of this Act when acting by the direction of the Bureau of Mines.

SEC. 22. That for the enforcement of the provisions of this Act, including personal services in the District of Columbia and elsewhere, and including supplies, equipment, expenses of traveling and subsistence, and for the purchase and hire of animal-drawn or motor-propelled passenger-carrying vehicles, and upkeep of same, and for every other expense incident to the enforcement of the provisions of this Act, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$300,000, or so much thereof as may be necessary: *Provided*, That not to exceed \$10,000 shall be expended in the purchase of motor-propelled passenger-carrying vehicles.

## INSTRUCTIONS TO OWNERS AND OPERATORS OF HYDRAULIC MINES IN CALIFORNIA.

[November, 1915.]

1. The California Debris Commission is composed of three officers of the Corps of Engineers, United States Army, who are appointed by the President of the United States, with the advice and consent of the United States Senate, under the authority of the Act of Congress, approved March 1, 1893. The Commission is charged by this act with the enforcement of its provisions, including such regulation and control of hydraulic mining in the drainage areas of the Sacramento and San Joaquin rivers of the State of California as is necessary to cause the tailings from such mining to be so impounded in the vicinity of the mine as to prevent injury to the navigable rivers and adjacent lands. The owners and operators of such mines are required by this law to comply strictly with such requirements of the Commission as may be deemed necessary to effect this purpose. An extreme penalty of \$5,000 fine and one year's imprisonment is provided for violation of the act.

2. Hydraulic mining embraces all mining operations where water is used under pressure through a nozzle against any bank of earth, gravel, or other similar material, thus eroding the bank. It is forbidden by law except under the supervision of the Commission.

3. The law requires that in all cases a license or written permission must be obtained from the Commission before hydraulic mining in the regions mentioned can be legally carried on.

4. Licenses or permission to mine by the hydraulic process are revocable by the Commission, and will not be given unless the requirements of the Commission are complied with as to sufficiency of suitable restraining barriers or dams. Licenses, when granted, will be suspended or revoked for failure to properly maintain such barriers or dams or for failure to make the reports and furnish information asked for by the Commission.

5. Licenses are obtained by making application to the California Debris Commission, San Francisco, Cal., on the special blank form issued by the Commission, copies of which will be sent on request, free of cost.

6. Licenses are not transferable and are valid only for the operations of the individual or company, and for the special mine named in the license.

7. By the terms of the law an application for a license must be advertised by the Commission in the newspapers to allow any protests to be filed with the Commission. This advertising usually takes about three weeks.

8. As soon as practicable after receiving an application, the Commission, or its representative, will visit the sites proposed by the applicants for the restraining works. If these are found satisfactory, and if no suitably substantiated protest is filed, the Commission will issue an order granting authority to construct the dams or barriers, with the requirements as to the work. Any work on a dam before such authorization is wholly at the builder's risk, and may not be accepted by the Commission. Any variation in location, order, or character of work from that specified by the Commission may also cause rejection of the dam.

9. At least three weeks before beginning any of the work under the order of the Commission, the interested party must give the Commission notice to permit such arrangement for such inspection of the work as the Commission may require. The

expense of this inspection, including salary, traveling and other expenses of the inspectors, as well as other cost involved in securing compliance with the order granting authority to construct the restraining works must, under the law, be borne by the mine owners or operators. The amount of the Commission's estimate of the expense of inspection must be deposited with the Commission, in a form acceptable to it, prior to the beginning of the works. If this deposit proves insufficient for the purpose, additional deposits must be made when called for by the Commission. After inspection any unused balance will be returned, with a statement showing expenditures made from the deposits. After the restraining works are found satisfactory to the Commission it will issue a revocable license to mine. *Until the license is issued it is illegal to mine.*

10. When the license has been issued, a report must be submitted every month on blank form for this purpose furnished by the Commission upon request. If no mining is carried on for any month, the small form is to be used; otherwise, the large form must be forwarded. All blank spaces should be carefully and accurately filled.

11. In case of any accident to a restraining dam affecting its efficiency, mining must immediately cease and the Commission must be notified promptly.

12. Dams must be kept water tight, and the parties using them must promptly check leakage. Before the debris held back has, within such distance (not less than one hundred feet) from the weir as the Commission may require, risen to a point three (3) feet below the level of the lowest point of the restraining barrier, or weir, mining must stop until more impounding capacity is provided in accordance with methods then affirmatively approved by the Commission.

13. Due notice of change in names of mines must be given to the Commission by the parties at interest.

14. The mine owners are usually expected to have the inspector met at the nearest railway or stage station and taken to the mine and back. As many regions where mines are located are inaccessible in winter time, applications for licenses and inspections should be submitted as early in the season as practicable. Delay in attending to this may occasion the loss of considerable time or an entire season.

15. To avoid delay due to loss of letters it is suggested that requests be repeated within a reasonable time, if not promptly acknowledged or acted upon. All communications should be addressed to the Secretary, California Debris Commission, Room 405, Custom House, San Francisco, Cal.

16. Construction of any restraining barrier not affirmatively authorized by the Commission, is prohibited. Where there exists above any restraining barrier authorized by the Commission, any barrier not now approved by it as permanent, the total capacity of the authorized barrier up to its crest and to such slope as the material may attain must be ample, in addition to that required by Rule 12, to care for the material temporarily restrained when it finally reaches the permanent barrier.

By direction of the California Debris Commission:

L. H. RAND,

Major, Corps of Engineers, U. S. Army.

Secretary.

## CALIFORNIA STATUTES.

An act to repeal Title XI of Part IV of Division First of the Civil Code and each and every section of said title, and to substitute a new Title XI to take the place thereof in said code, relating to mining corporations.

[Approved March 21, 1905.]

*The people of the state of California, represented in senate and assembly, do enact as follows:*

SECTION 1. Title XI and Part IV of Division First of the Civil Code and each and every section of said title are hereby repealed, and a new Title XI is substituted in place thereof in said code, to read as follows:

## TITLE XI.

## MINING CORPORATIONS.

SEC. 586. Transfer agencies.

587. Stock issued at transfer agencies.

587a. Consolidation of mining corporations.

588. Books and balance sheets to be kept by secretary. Stockholders' right to inspect.

589. Right of stockholders to visit mine with expert.

590. Liability of presidents and directors.

§ 586. Any corporation organized in this state for the purpose of mining or carrying on mining operations in or without this state, may establish and maintain agencies in other states of the United States, for the transfer and issuing of their stock; and a transfer or issue of the same at any such transfer agency, in accordance with the provisions of its by-laws, is valid and binding as fully and effectually for all purposes as if made upon the books of such corporation at its principal office within this state. The agencies must be governed by the by-laws and the directors of the corporation.

§ 587. All stock of any such corporation, issued at a transfer agency, must be signed by the president and secretary of the corporation, and countersigned at the time of its issue by the agent having charge of the transfer agency. No stock must be issued at a transfer agency unless the certificate of stock, in lieu of which the same is issued, is at the time surrendered for cancellation.

§ 587a. It is lawful for two or more corporations formed, or that may hereafter be formed, under the laws of this state, for mining purposes, which own or possess mining claims or lands adjoining each other, or lying in the same vicinity, to consolidate their capital stock, debts, property, assets and franchises, in such manner and upon such terms as may be agreed upon by the respective boards of directors or trustees of such corporations so desiring to consolidate their interests; but no such consolidation must take place without the written consent of the stockholders representing two-thirds of the capital stock of each corporation, and no such consolidation can, in any way, relieve such corporations, or the stockholders thereof, from any and all just liabilities; and in case of such consolidation, due notice of the same must be given, by advertising, for one month, in at least one newspaper in the county where the said mining property is situated, if there is one published therein, and also in one newspaper published in the county where the principal place of business of any of said corporation is. And when the consolidation is completed, a certificate thereof, containing the manner and terms of such consolidation, must be filed in the office of the county clerk of the county in which the original certificate of incorporation of each of said corporations is filed, and a copy thereof must be filed in the office of the secretary of state; such certificate must be signed by a majority of each board of trustees or directors of the original corporations, and it is their duty to call, within thirty days after the filing of such certificate, a meeting of the stockholders of all of said corporations so consolidated, to elect a board of trustees or directors for the consolidated corporation, for the year thence



next ensuing; and to cause notice of the time and place fixed for such meeting to be mailed to each stockholder of each of such corporations at his last known place of residence or business at least ten days before the time fixed for such meeting. The said certificate must also contain all the requirements prescribed by section two hundred and ninety.

§ 588. It is the duty of the secretary of every corporation formed for the purpose of mining, or conducting mining in California, whether such corporation be formed and organized under the laws of the state of California or of any other state, territory, or foreign country, to keep at some place within the state of California an office and in such office to keep a complete set of books showing all receipts and expenditures of such corporation, the sources of such receipts, and the objects of such expenditures, and also all transfers of stock. All books and papers must, at all times during business hours, be open to the inspection of any stockholder. He is entitled to be accompanied by an expert, and to make copies or extracts from any such books or papers. He may, at reasonable hours, examine such mining property, accompanied by an expert, take samples, and make such other examination as he may deem necessary. It is the duty of the directors, on the second Monday of each and every month, to cause to be made an itemized account or balance sheet for the previous month, embracing a full and complete statement of all disbursements and receipts, showing from what sources such receipts were derived, and to whom and for what object or purpose such disbursements or payments were made; also all indebtedness or liabilities incurred or existing at the time, and for what the same were incurred, and the balance of money, if any, on hand. Such account or balance sheet must be verified under oath by the president and secretary, and posted in some conspicuous place in the office of the company. It is the duty of the superintendent, on the first Monday of each month, to file with the secretary an itemized account, verified under oath, showing all receipts and disbursements made by him for the previous month, and for what said disbursements were made. Such account must also contain a verified statement showing the number of men employed under him, and for what purpose, and the rate of wages paid to each. He must attach to such account a full and complete report, under oath, of the work done in said mine, the amount of ore extracted, from what part of mine taken, the amount sent to mill for reduction, its assay value, the amount of bullion received, the amount of bullion shipped to the office of the company or elsewhere, and the amount, if any, retained by the superintendent. It is his duty to forward to the office of the company a full report, under oath, of all discoveries of ores or mineral-bearing quartz made in said mine, whether by boring, drifting, sinking, or otherwise, together with the assay value thereof. All accounts, reports, and correspondence from the superintendent must be kept in some conspicuous place in the office of said company, open to the inspection of all stockholders.

§ 589. Any stockholder of a corporation formed under the laws of this state for the purpose of mining, is entitled to visit, accompanied by his expert, and examine the mine or mines owned by such corporation, and every part thereof, at any time he may see fit; and when such stockholder applies to the president of such corporation, he must immediately cause the secretary thereof to issue and deliver to such applicant an order, under the seal of the corporation, directed to the superintendent, commanding him to show and exhibit such parts of said mine or mines as the party named in said order may desire to visit and examine. It is the duty of the superintendent, on receiving such order, to furnish such stockholder every facility for making a full and complete inspection of said mine or mines, and of the workings therein, and to accompany said stockholder either in person, or to furnish some person familiar with said mine or mines to accompany him in his visit to and through such mine or mines, and every part thereof. If the superintendent fails to obey such order, such stockholder is entitled to recover, in any court of competent jurisdiction, against the corporation, the sum of one thousand dollars, and traveling expenses to and from the mine, as liquidated damages, together with costs of suit. In case of such refusal, it is the duty of the directors of the corporation forthwith to remove the officer so refusing, and thereafter he must not be employed directly or indirectly by the corporation, nor must any salary be paid to him.

§ 590. In case of the refusal or neglect of the president to cause to be issued by the secretary the order mentioned in section five hundred and eighty-nine, such stockholder is entitled to recover against said president the sum of one thousand dollars and costs, as provided in the last section. If the directors fail to have the reports and accounts current made and posted as provided in section five hundred and eighty-eight, they are liable, either severally or jointly, to an action by any stockholder complaining thereof, and on proof of such refusal or failure, he may recover judgment for actual damages sustained by him, with costs of suit. Each of such defaulting directors is also liable to removal for such neglect.

## CORPORATION LICENSE TAX LAW.

### Chapter 190.

An act prescribing terms and conditions upon which corporations may transact business in this state and providing penalties and forfeitures for noncompliance.

[Approved May 10, 1915.]

*The people of the state of California do enact as follows:*

SECTION 1. Every corporation organized under the laws of another state, territory, or of a foreign country, which is now doing business in this state or maintaining an office herein, and which has not filed with the secretary of state prior to the day on which this act takes effect the document or documents required by section four hundred and eight of the Civil Code, or which shall hereafter do business in this state or maintain an office herein, or which shall enter this state for the purpose of doing business herein, must file in the office of the secretary of state of the state of California a certified copy of its articles of incorporation, or of its charter, or of the statute or statutes, or legislative, or executive, or governmental act or acts creating it, in cases where it has been created by charter, or statute, or legislative, or executive, or governmental act, duly certified by the secretary of state or other officer authorized by the law of the jurisdiction under which such corporation is formed to certify such copy, and must also file a certified copy thereof, duly certified by the secretary of state of this state in the office of the county clerk of the county where its principal place of business in this state is located, and also where such corporation owns any property, and every such corporation shall pay to the secretary of state for filing in his office such certified copy of its articles of incorporation, or of its charter, or of the statute or statutes, or legislative, or executive, or governmental act or acts creating it, a fee of seventy-five dollars, which fee shall be in lieu of the filing fee provided for in section four hundred and nine of the Political Code; *provided*, that foreign corporations organized for educational, religious, scientific or charitable purposes and having no capital stock, shall pay a fee of five dollars for filing the document or documents hereinabove required.

Foreign corporations having a capital stock shall also file with the secretary of state copies of any documents showing an increase or decrease in their authorized capital stock, which documents shall be certified in the manner hereinabove required, but no fee shall be paid for such filing. It is hereby provided that every foreign corporation subject to the tax herein provided shall file with the secretary of state, at the time it tenders payment of said tax and any penalty which has accrued, an affidavit sworn to by its president or secretary, showing the amount of its authorized capital stock on the first day of January of the year in which said payment is made, and in the event that such authorized capital stock, as shown by such affidavit, differs from the amount of such capital stock as appears from the records of the secretary of state, then the tax herein provided shall be measured by the amount shown in such affidavit, but in such event the license herein required shall not be issued nor shall the amount so tendered be accepted until copies of any documents relating to such change in authorized capital stock, certified as required by this section, shall have been filed with the secretary of state. If such corporation shall neglect to file such copy or copies before the hour of six o'clock p.m. of the first Monday of February of the year for which the license must be procured,

it shall suffer the penalty for the delinquency herein provided and if it shall neglect to make such filing before the hour of six o'clock p.m. of the Saturday preceding the first Monday in March of such year, it shall suffer the forfeiture provided in section seven of this act; *provided, however*, that any foreign corporation which, prior to the eighth day of March, nineteen hundred and one, shall have complied with the provisions of the act entitled, "An act to amend 'An act in relation to foreign corporations,' approved April first, eighteen hundred and seventy-two," approved March seventeenth, eighteen hundred and ninety-nine, shall, in lieu of the provisions of this section above set forth, file the affidavit herein required and the license tax due from such corporation shall be measured by the authorized capital stock, as shown thereby.

SEC. 2. Upon filing in the office of the secretary of state the certified copy of articles of incorporation of corporations organized under the laws of this state, there shall be paid to the secretary of state the fees prescribed therefor by section four hundred and nine of the Political Code.

SEC. 3. No corporation heretofore or hereafter incorporated under the laws of this state, or of any other state, territory, or foreign country, shall do or attempt to do any intrastate business within this state by virtue of its charter, or certificate of incorporation, without a state license therefor.

SEC. 4. It shall be the duty of every corporation incorporated under the laws of this state, and of every corporation incorporated under the laws of any other state, territory, or foreign country, now doing intrastate business within this state, or which shall hereafter engage in intrastate business in this state, to procure annually from the secretary of state a license authorizing the transaction of such business in this state, and to pay therefor the license tax prescribed herein.

For the purpose of measuring said tax the secretary of state shall examine all articles of incorporation and all documents on file in his office relating to an increase or decrease in the authorized capital stock of corporations which are subject to said tax, and determine the amount due from each corporation by the following rule:

When the authorized capital stock of the corporation does not exceed ten thousand dollars (\$10,000.00) the tax shall be ten dollars (\$10.00); when the authorized capital stock exceeds ten thousand dollars (\$10,000.00) but does not exceed twenty thousand dollars (\$20,000.00) the tax shall be fifteen dollars (\$15.00); when the authorized capital stock exceeds twenty thousand dollars (\$20,000.00) but does not exceed fifty thousand dollars (\$50,000.00) the tax shall be twenty dollars (\$20.00); when the authorized capital stock exceeds fifty thousand dollars (\$50,000.00) but does not exceed one hundred thousand dollars (\$100,000.00) the tax shall be twenty-five dollars (\$25.00); when the authorized capital stock exceeds one hundred thousand dollars (\$100,000.00) but does not exceed two hundred and fifty thousand dollars (\$250,000.00) the tax shall be fifty dollars (\$50.00); when the authorized capital stock exceeds two hundred and fifty thousand dollars (\$250,000.00) but does not exceed five hundred thousand dollars (\$500,000.00) the tax shall be seventy-five dollars (\$75.00); when the authorized capital stock exceeds five hundred thousand dollars (\$500,000.00) but does not exceed one million dollars (\$1,000,000.00) the tax shall be one hundred dollars (\$100.00); when the authorized capital stock exceeds one million dollars (\$1,000,000.00) but does not exceed three million dollars (\$3,000,000.00) the tax shall be two hundred dollars (\$200.00); when the authorized capital stock exceeds three million dollars (\$3,000,000.00) but does not exceed five million dollars (\$5,000,000.00) the tax shall be three hundred and fifty dollars (\$350.00); when the authorized capital stock exceeds five million dollars (\$5,000,000.00) but does not exceed seven million five hundred thousand dollars (\$7,500,000.00) the tax shall be five hundred fifty dollars (\$550.00); when the authorized capital stock exceeds seven million five hundred thousand dollars (\$7,500,000.00) but does not exceed ten million dollars (\$10,000,000.00) the tax shall be eight hundred dollars (\$800.00); when the authorized capital stock exceeds ten million dollars (\$10,000,000.00) the tax shall be one thousand dollars (\$1,000.00). All corporations having no capital stock, but organized for profit, shall pay an annual tax of ten dollars (\$10.00).

Said license tax shall be due and payable to the secretary of state on the first day of January of each and every year. Such license tax shall be paid on or before the hour of six o'clock p.m. of the first Monday of February of each year and if not so paid shall at said hour become delinquent and there shall thereupon be added thereto as a penalty for such delinquency the sum of ten dollars (\$10.00).

SEC. 5. The license hereby provided authorizes the corporation holding the same to transact intrastate business in this state during the year or any fractional part of such year for which such license is issued. "Year," within the meaning of this act, means from and including the first day of January to and including the thirty-first day of December next thereafter.

SEC. 6. At the time of filing any certified copy of articles of incorporation, or charter, or statute or statutes, or legislative, or executive or governmental act or acts creating a corporation, when filed between the first day of January and the thirty-first day of December, inclusive, in any year, there shall be paid to the secretary of state, in addition to all other fees required by law, that proportion of the license tax specified in section four of this act which the unexpired number of months of such year bears to the entire year including the month in which such filing occurs, and thereupon the secretary of state shall issue a license for such fractional part of the then current year.

SEC. 7. At the hour of six o'clock p.m. of the Saturday preceding the first Monday in March of each year the charters of all corporations organized under the laws of this state and which have failed to pay the license tax and penalty prescribed by section four of this act shall be forfeited to the state of California, and the right of all foreign corporations to do intrastate business in this state, which have failed to pay said license tax and penalties shall be likewise forfeited.

SEC. 8. Educational, religious, scientific and charitable corporations, corporations which are not organized for profit, and corporations doing solely an interstate business and those corporations enumerated in subdivisions (a), (b) and (c) of section fourteen of article XIII of the constitution are exempt from the payment of the tax provided by this act.

SEC. 9. Any corporation claiming exemption from the payment of said annual license tax must file with the secretary of state at least sixty days before such tax becomes due and payable a written protest in which it shall set forth all facts and reasons upon which such exemption claim is made, sworn to by the president and secretary or general manager of such corporation. Failure to protest in the manner and within the time herein prescribed shall constitute a waiver of all rights of exemption from said tax. Such corporation shall furnish under oath such other proof as the secretary of state may require or demand. All evidence and proofs submitted upon such claim of exemption shall be submitted by the secretary of state to the board of control and state controller, and said officers shall thereupon determine the question of such corporation's claim of exemption. The determination of said officers upon all questions of fact shall be final and conclusive; *provided*, however, that at the time of filing a certified copy of the articles of incorporation of any domestic corporation in the office of the secretary of state, and at the time a foreign corporation files with the secretary of state the document or documents required by section one of this act, the secretary of state shall determine whether such corporation is exempt as an educational, religious, scientific, or charitable corporation or as a non-profit corporation or as one of the corporations enumerated in subdivisions (a), (b) and (c) of section fourteen of article XIII of the constitution.

SEC. 10. If the license tax and penalties for delinquency required to be paid by section four of this act are not paid within the time herein required, the secretary of state shall on the Saturday preceding the first Monday in March, and at six o'clock p.m. of said day, enter upon the record of corporations in his office against the name of any company so failing to pay said license tax and penalty the words "charter forfeited to the state," if the corporation be a domestic corporation, and thereupon said charter shall be *ipso facto* so forfeited, and the words "right to do intrastate business forfeited" if the corporation be a foreign corporation, and thereupon said right to do intrastate business in this state shall be *ipso facto* so forfeited.

SEC. 11. On or before the first Monday of April of each year the secretary of

state shall make a list of all domestic corporations whose charters have been so forfeited, and of all foreign corporations whose right to do intrastate business in this state has been so forfeited or which have surrendered their right to do intrastate business in this state as provided in section fifteen of this act, and shall transmit a certified copy thereof to each county clerk in this state, who shall file the same in his office.

SEC. 12. It shall be unlawful for any corporation, either domestic or foreign, which has not paid the license tax, as in this act prescribed, to exercise the powers of such corporation, or to transact any intrastate business in this state, after six o'clock p.m. of the Saturday preceding the first Monday in March next following the delinquency. Each and every person who exercises any of the powers of a corporation which has forfeited its charter or right to do intrastate business in this state, or who transacts any business for or in behalf of such corporation, after such forfeiture, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars and not exceeding one thousand dollars, or by imprisonment in the county jail not less than fifty days or more than five hundred days, or by both such fine and imprisonment.

SEC. 13. In all cases of forfeiture under the provisions of this act, the directors or managers in office of the affairs of any domestic corporation, whose charter may be so forfeited, or of any foreign corporation whose right to do business in this state may be so forfeited, are deemed to be trustees of the corporation and stockholders or members of the corporation whose power or right to do business is forfeited and have full power to settle the affairs of the corporation and to maintain or defend any action or proceeding then pending in behalf of or against any of said corporations, or to take such legal proceedings as may be necessary to fully settle the affairs of said corporation, and such directors or managers, as such trustees, may be sued in any of the courts of this state by any person having a claim against any of said corporations; *provided, always*, that no action pending against any corporation shall abate thereby, but may be prosecuted to final judgment and may be enforced by execution with the same force and effect and in like manner as though no forfeiture had occurred; *and provided, further*, that where judgment has been entered against any corporation prior to forfeiture under this act, that notwithstanding, execution may be issued thereon and the property of said corporation, or that may come into the hands of any trustees for it may be levied upon, seized and sold to satisfy the same with like force and effect as though such forfeiture had not occurred.

SEC. 14. Any domestic corporation which suffers the forfeiture prescribed by this act, may pay to the secretary of state all taxes and penalties which shall have accrued prior to such forfeiture, and all taxes and penalties which would have accrued if such forfeiture had not occurred; and shall file an application with the secretary of state for the restoration of its charter, which application must set forth the names of the persons who became trustees upon such forfeiture, under the provisions of section thirteen of this act, and shall be signed by all of said persons then surviving, and acknowledged by each of said persons before an officer authorized by the laws of this state to take acknowledgments of conveyances of real property; whereupon such corporation shall be restored to its former corporate status and the secretary of state shall issue to such corporation a license entitling it to transact intrastate business in this state during the year in which such license is issued; *provided, however*, that no corporation organized under the laws of this state which suffers such forfeiture shall be relieved from the effect thereof, nor shall such license be issued, in the event that subsequent to the date of forfeiture its corporate name, or a name so closely resembling said name as will tend to deceive, has been adopted and is in use by another domestic corporation.

Any foreign corporation which suffers a forfeiture of its right to do intrastate business in this state, may pay to the secretary of state all taxes and penalties which shall have accrued prior to such forfeiture, and all taxes and penalties which would have accrued if such forfeiture had not occurred, and shall file with the secretary of state its application for a restoration of its right to do intrastate business, and

copies of any documents increasing or decreasing its capital stock, certified as heretofore provided, together with an affidavit by its president or secretary, setting forth the amount of its authorized capital stock on the first day of January of the year in which said application is presented, and the taxes which would have accrued after the date of such forfeiture shall be measured by the authorized capital stock, as shown by such copies and affidavits; whereupon such corporation shall be restored to its former corporate status and the secretary of state shall issue to such corporation a license entitling it to do intrastate business in this state during the year in which such license is issued.

Any domestic corporation which has heretofore suffered a forfeiture of its charter under the provisions of an act entitled "An act relating to revenue and taxation, providing for a license tax upon corporations and making an appropriation for the purpose of carrying out the objects of this act," approved March 20, 1905, or under the provisions of any act amendatory thereof, may be restored to its former corporate status, subject to and upon complying with the conditions hereinabove provided for the reinstatement of domestic corporations which suffer the forfeiture prescribed by this act, and in addition thereto, upon payment of the taxes and penalties which would have accrued under said act of 1905, or any of the acts amendatory thereof, if such forfeiture had not occurred.

Any foreign corporation which has suffered a forfeiture of its right to do business in this state under the provisions of said act of 1905, or any act amendatory thereof, may be relieved from the effect thereof and resume an intrastate business in this state upon filing with the secretary of state an affidavit by its president or secretary, setting forth the amount of its capital stock at time of taking effect of this act, and stating any subsequent changes in said authorized capital stock, and the dates on which such changes became effective, and shall pay to the secretary of state all taxes and penalties which would have accrued under said act of 1905, or under any of the acts amendatory thereof if such forfeiture had not occurred, and the taxes and penalties which would have accrued under the provisions of this act; whereupon such corporation shall be restored to its former corporate status and the secretary of state shall issue to such corporation a license entitling it to do intrastate business in this state during the year for which the license is issued. And the secretary of state shall, on or before the first Monday of April of each year, make a list of the corporations, both foreign and domestic, so paying, and of the foreign corporations which have resumed the transaction of intrastate business in this state, as provided in section fifteen of this act, and shall transmit a certified copy of said list to each county clerk in this state, who shall file the same in his office; *provided*, the rehabilitation of any such corporation by reason of making such payments shall be without prejudice to any action, defense, or right which accrued by reason of the original forfeiture.

SEC. 15. Any foreign corporation may surrender its right to engage in intrastate business in this state by filing a stipulation with the secretary of state, in which it shall agree that it will not transact such business at any time thereafter without first obtaining from the secretary of state a license authorizing the resumption of such business, as hereinafter provided. Upon the filing of such stipulation and upon the payment of any tax or penalty then due, said corporation shall be exempt from the payment of the tax provided in this act. It shall be unlawful for any such corporation to exercise its corporate powers in transacting any intrastate business in this state after the filing of such stipulation. Each and every person who exercises any of the powers of such corporation in the transaction of intrastate business or who transacts any intrastate business for or in behalf of such corporation after such filing shall be subject to penalties prescribed by section twelve of this act.

Any such corporation may resume the transaction of intrastate business in this state at any time thereafter upon filing its application for a license therefor with the secretary of state and an affidavit by its president or secretary setting forth the amount of its authorized capital stock, and copies of any documents increasing or diminishing such capital stock, which copies shall be certified as herein provided, and upon paying a tax for the unexpired portion of the year which shall be measured

by its authorized capital stock and which shall be that portion of the license tax specified in section four of this act which the unexpired number of months of such year, including the month in which such license is issued, bears to the entire year.

SEC. 16. Any false statement contained in any of the affidavits herein required shall constitute perjury, and shall be punishable as such.

SEC. 17. All moneys herein required to be paid shall, upon collection by the secretary of state, be immediately paid by him into the state treasury.

SEC. 18. Nothing in this act shall be construed as affecting or repealing any statute of this state respecting the assessment of franchises and levying of taxes thereon.

SEC. 19. The provisions of this act in so far as they relate to the payment of the license tax provided for in section four of this act shall take effect on the first day of January, 1916, and as to all other provisions this act shall take effect ninety days after final adjournment of the forty-first session of the legislature.

## PROTECTION OF STOCKHOLDERS.

An act to amend an act entitled "An act to protect stockholders and persons dealing with corporations in this state," approved March 29, 1878, and all acts amendatory thereof, and to repeal all laws in conflict therewith.

[Approved March 22, 1905.]

*The people of the state of California, represented in senate and assembly, do enact as follows:*

SECTION 1. Any superintendent, director, secretary, manager, agent, or other officer, of any corporation formed or existing under the laws of this state, or transacting business in the same, and any person pretending or holding himself out as such superintendent, director, secretary, manager, agent, or other officer, who shall wilfully subscribe, sign, endorse, verify, or otherwise assent to the publication, either generally or privately, to the stockholders or other persons dealing with such corporation, or its stock, any untrue or wilfully and fraudulently exaggerated report, prospectus, account, statement of operations, values, business, profits, expenditures or prospects, or other paper or document intended to produce or give, or having a tendency to produce or give, to the shares of stock in such corporation a greater value or less apparent or market value than they really possess, or with the intention of defrauding any particular person or persons, or the public, or persons generally, shall be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment in state prison or a county jail not exceeding two years, or by fine not exceeding five thousand dollars, or by both.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

## CIVIL CODE.

§ 309. The directors of corporations must not make dividends, except from the surplus profits arising from the business thereof; nor must they create any debts beyond their subscribed capital stock; nor must they divide, withdraw or pay to the stockholders, or any of them, any part of the capital stock, except as hereinafter provided, nor reduce or increase the capital stock, except as herein specially provided. For a violation of the provisions of this section, the directors under whose administration the same may have happened (except those who may have caused their dissent therefrom to be entered at large on the minutes of the directors at the time, or were not present when the same did happen) are, in their individual or private capacity, jointly and severally liable to the corporation, and to the creditors thereof, to the full amount of the capital stock so divided, withdrawn, paid out, or reduced, or debt contracted; and no statute of limitation is a bar to any suit against such directors for any sums for which they are liable by this section; *provided, however,* that where a corporation has been heretofore or may hereafter be formed for the purpose, among other things, of acquiring, holding, and selling real estate, water, and water rights, the directors of such corporation may, with the consent of stockholders representing two-thirds of the capital stock thereof, given at a meeting

called for that purpose, divide among the stockholders the land, water or water rights so by such corporation held, in the proportions to which their holdings of such stock at the time of such division entitled them. All conveyances made by the corporation in pursuance of this section must be made and received subject to the debts of such corporation existing at the date of the conveyance thereof. Nothing herein prohibits a division and distribution of the capital stock of any corporation which remains after the payment of all its debts, upon its dissolution, or the expiration of its term of existence.

#### PENAL CODE.

§ 560. Every director of any stock corporation who concurs in any vote or act of the directors of such corporation or any of them, by which it is intended, either—

1. To make any dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law; or,

2. To provide, withdraw, or in any manner, except as provided by law, pay to the stockholders, or any of them, any part of the capital stock of the corporation; or,

3. To discount or receive any note or other evidence of debt in payment of any installment actually called in and required to be paid, or with the intent to provide the means of making such payment; or,

4. To receive or discount any note or other evidence of debt, with the intent to enable any stockholder to withdraw any part of the money paid in by him, or his stock; or,

5. To receive from any other stock corporation, in exchange for the shares, notes, bonds, or other evidences of debt of their own corporation, shares of the capital stock of such other corporation, or notes, bonds, or other evidences of debt issued by such other corporation:—is guilty of a misdemeanor.

#### TO PREVENT WASTING OF NATURAL GAS.

An act prohibiting the unnecessary wasting of natural gas into the atmosphere; providing for the capping or otherwise closing of wells from which natural gas flows; and providing penalties for violating the provisions of this act.

[Approved March 25, 1911.]

*The people of the state of California, represented in senate and assembly, do enact as follows:*

SECTION 1. All persons, firms, corporations and associations are hereby prohibited from wilfully permitting any natural gas wastefully to escape into the atmosphere.

SEC. 2. All persons, firms, corporations or associations digging, drilling, excavating, constructing or owning or controlling any well from which natural gas flows shall upon the abandonment of such well, cap or otherwise close the mouth of or entrance to the same in such a manner as to prevent the unnecessary or wasteful escape into the atmosphere of such natural gas. And no person, firm, corporation or association owning or controlling land in which such well or wells are situated shall wilfully permit natural gas flowing from such well or wells, wastefully or unnecessarily to escape into the atmosphere.

SEC. 3. Any person, firm, corporation or association who shall wilfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

SEC. 4. For the purposes of this act each day during which natural gas shall be wilfully allowed wastefully or unnecessarily to escape into the atmosphere shall be deemed a separate and distinct violation of this act.

SEC. 5. All acts or parts of acts in conflict herewith are hereby repealed.

SEC. 6. This act shall take effect immediately.



## USE OF CALIFORNIA MATERIALS IN CALIFORNIA PUBLIC BUILDINGS.

### Section 3247 of the Political Code.

"Any person, committee, board, officer, or any other person charged with the purchase, or permitted or authorized to purchase, supplies, goods, wares, merchandise, manufactures, or produce, for the use of the state, or any of its institutions or offices, or for the use of any county or consolidated city and county, or city, or town, shall always, price, fitness and quality being equal, prefer such supplies, goods, wares, merchandise, manufactures, or produce as has been grown, manufactured or produced in this state, and shall next prefer such as have been partially so manufactured, grown or produced in this state. All state, county, city and county, city or town officers, all boards, commissions, or other persons charged with advertising for any such supplies, shall state in their advertisement that such preferences will be made. In any such advertisement no bid shall be asked for any article of a specific brand or mark nor any patent apparatus or appliances, when such requirement would prevent proper competition on the part of dealers in other articles of equal value, utility or merit."

## LANDS UNCOVERED BY RECESSION OF WATER.

An act to amend section 3493m of the Political Code, relating to land uncovered by the recession or drainage of the waters of inland lakes.

[Approved April 14, 1911.]

*The people of the state of California, represented in senate and assembly, do enact as follows:*

SECTION 1. Section 3493m of the Political Code is hereby amended to read as follows:

Section 3493m. Any person desiring to purchase any of the lands now uncovered or which may hereafter be uncovered by the recession or drainage of the waters of inland lakes, and inuring to the state by virtue of her sovereignty, or the swamp and overflowed lands not segregated by the United States, must make an application therefor to the surveyor general of the state, which application must be accompanied by the applicant's affidavit that he is a citizen of the United States, or has declared his intention to become such, a resident of this state, of lawful age, that he desires to purchase such lands (describing them by legal subdivisions, or by metes and bounds, if the legal subdivisions are unknown), under the provisions of this article, for his own use and benefit, and for the use and benefit of no other person whomsoever, and that he has made no contract or agreement to sell the same, and that he does not own any state lands which, together with that now sought to be purchased, exceeds six hundred and forty acres.

The provisions of this section shall not affect or apply to any land uncovered by the recession or drainage of the waters of any lake or other body of water, the waters of which are so impregnated with minerals as to be valuable for the purpose of extracting therefrom such minerals; but the land uncovered by the recession or drainage of such waters shall be subject to lease for periods of not longer than twenty-five years upon such charges, terms and conditions as may be prescribed by law.

SEC. 2. All acts or parts of acts in conflict herewith are hereby repealed.

SEC. 3. This act shall take effect immediately.

## EXTRACTION OF MINERALS FROM WATER.

An act regulating the extraction of minerals from the waters of any stream or lake and prohibiting the extraction of minerals from said waters except under lease from or express permission of the state for a period not exceeding twenty-five years.

[Approved April 14, 1911.]

*The people of the state of California, represented in senate and assembly, do enact as follows:*

SECTION 1. Minerals contained in the waters of any stream or lake in this state shall not be extracted from said waters except upon charges, terms and conditions prescribed by law. No person, firm, corporation or association shall hereafter gain the right to extract or cause to be extracted said minerals from said waters by user, custom, prescription, appropriation, littoral rights, riparian rights, or in any manner other than by lease from or express permission of the state as prescribed by law: and no such lease or permission shall be granted for a longer period than twenty-five years.

SEC. 2. All acts or parts of acts in conflict herewith are hereby repealed.

SEC. 3. This act shall take effect immediately.

## HYDRAULIC MINING.

Where hydraulic mining can be carried on.

§ 1424. The business of hydraulic mining may be carried on within the state of California wherever and whenever the same can be carried on without material injury to the navigable streams, or the lands adjacent thereto.

Meaning of hydraulic mining.

§ 1425. Hydraulic mining, within the meaning of this title, is mining by the means of the application of water, under pressure, through a nozzle, against a natural bank.

See also act creating California Debris Commission and regulation, page 34.

## MINERAL LANDS WITHIN MEANDER LINES OF LAKES AND STREAMS.

An act relating to lakes and streams, the waters of which contain minerals in commercial quantities; withdrawing state lands within the meander lines thereof from sale; prescribing conditions for taking such minerals from said waters and lands, and providing for the leasing of lands uncovered by the recession of the waters of such lakes and streams.

[Approved April 27, 1911.]

*The people of the state of California, represented in senate and assembly, do enact as follows:*

SECTION 1. There is hereby withdrawn from selection and sale all of the lands embraced within the original meander lines of streams and lakes belonging to the state, the waters of which contain minerals in commercial quantities, and all such lands which may hereafter inure to the state by virtue of its sovereignty, excepting such lands now contracted to be sold under sections 3493m to 3493t, both inclusive, of the Political Code.

SEC. 2. No person, firm or corporation shall take water from such streams or lakes containing minerals and extract from such water such minerals, except under the terms and conditions of this act; and no person, firm or corporation may lease any land herein referred to and extract therefrom minerals deposited therein or thereon, except under the terms and conditions of this act.

SEC. 3. Every person, firm or corporation taking from the waters of such streams, lakes or lands any minerals, shall file, on or before the last Monday in January of each year, with the county assessor of the county in which any such stream or lake is situated, and also with the state controller, a written statement, duly verified, showing in tons of two thousand pounds, the amount of mineral taken by such person.

firm or corporation from such water or land during the year ending December 31st last preceding, and sold by said person, firm or corporation during the said year preceding. Any such person, firm or corporation neglecting or refusing to furnish such statement shall be subject to a fine of one hundred dollars for each day after the said last Monday in January such person, firm or corporation, shall fail to furnish such statement, and, in addition to said fine, shall forfeit all leases granting the right to extract such minerals from said water and said land. Any person who shall, either on behalf of himself or any firm or corporation, verify any such statement which shall be untrue in any material part, shall be deemed guilty of a misdemeanor.

SEC. 4. In case either the assessor or the state controller shall not be satisfied with the statement as returned, he may make an examination of the matters necessary to verify or correct said statement, and, for that purpose, may subpoena witnesses and call for and compel the production of necessary books and papers belonging to the person, firm or corporation making the returns.

SEC. 5. The county assessor of the county shall, after examination and approval by him and the state controller of such statement, proceed to collect from such person, firm or corporation a royalty of twenty-five cents for each ton of two thousand pounds of mineral taken from such water or land by such person, firm or corporation and sold, during the preceding year, in the manner provided for the collection of personal property taxes; *provided*, that the royalty on sodium bicarbonate and on sodium hydrate so taken shall be fifty (50) cents for each ton of two thousand pounds.

SEC. 6. Any person, firm or corporation desiring to lease any lands under this act must make application therefor to the surveyor general of the state, describing the lands sought to be leased by legal subdivisions, or if the legal subdivisions are unknown to the applicant by metes and bounds. The application must be accompanied by a filing fee of ten dollars.

SEC. 7. Upon the receipt of such application, the surveyor general shall direct the county surveyor of the county in which such lands are situated to survey the land sought to be leased. The county surveyor shall make an actual survey of the land, at the expense of the applicant, establishing the four corners to each quarter section, and connecting the same with a United States survey; and, within thirty days file with the surveyor general a copy, under oath, of his field notes and plat. If the county surveyor fails to make the survey as herein provided, the surveyor general shall immediately direct another person to make the survey at the expense of the applicant, and said survey shall be made and completed within thirty days after the authorization, and the field notes and plats, or copies thereof, shall be sworn to by the surveyor making them and shall be filed with the surveyor general.

SEC. 8. All applications to lease land under this act shall be approved or rejected by the surveyor general within ninety days after the receipt thereof. Immediately after the approval of the application, the surveyor general shall execute and deliver to the applicant a lease of the lands described in the application.

SEC. 9. The lands designated in this act shall be leased at the rate of two dollars and fifty cents per acre, per year, payable yearly in advance. All moneys received as rental for such lands and as royalty upon the mineral product of the waters of the lakes, streams or lands above mentioned, shall be paid into the state school land fund.

SEC. 10. Whenever any lease is delivered to the applicant by the surveyor general, the lessee shall within fifteen days thereafter, present said lease to the treasurer of the state of California, and make payment of the first annual rental. The treasurer shall receive the money and give a receipt therefor. All subsequent annual payments of rental must be paid to the state treasurer, in like manner, within fifteen days after they become due. In case payments are not made as herein provided, the lease and all rights thereunder shall cease and terminate. No lease shall run for more than twenty-five years; *provided*, that upon the expiration of any lease, such lease may be extended for a period of twenty-five years upon such terms and conditions as may then be prescribed by law.

SEC. 11. All leases made under the authority of this act shall contain a reservation to the state of a right to locate rights of way across such leased lands, subject only to the requirements that the rights of way shall be located in such manner as to cause the least injury to the leased lands across which the same may be located, and that any damage suffered by the lessee of such lands shall be compensated by the lessee of the lands for whose benefit the right of way is required; and every such lease shall be subject to, and shall contain a reservation of, the right of any city and county or incorporated city or town of this state to at any time appropriate and take, under the laws of this state relative to the appropriation of waters, water from any stream or lake tributary to or discharging into any stream or lake of the character mentioned in section one of this act; for any use or uses within the authorized powers of such city and county, or incorporated city or town.

SEC. 12. Leases of rights of way, not exceeding one hundred feet in width, for access to any water or lands designated by this act, may be applied for and granted in the manner herein provided for leasing lands. Such rights of way shall be leased at an annual rental of two dollars and fifty cents an acre, and the same shall be paid as herein provided for leased lands.

SEC. 13. All leases of mineral lands provided for by this act shall cease and terminate on December 31st of any year if the lessee or assigns has not, during the year preceding, extracted or removed from such land and water an amount of mineral equal, in the aggregate, to a minimum of five tons per acre of land leased; *provided*, that when a lease is not delivered to the lessee until after the fifteenth day of January of any year, the minimum tonnage for such year shall be less than five (5) tons, and shall be proportional to the number of days remaining in such year after the completion of the works.

SEC. 14. The surveyor general is hereby authorized to prepare, make, execute and deliver all papers, instruments and documents, and to do any and all things necessary to carry out the provisions of this act.

SEC. 15. The legislature shall have the right to change, from time to time, the royalty per ton of minerals extracted and the annual rental per acre of land, and such change shall apply to all persons, firms or corporations holding leases hereinunder; *provided*, that no lease given under this act shall be subject to any change, as to the royalty or rental provided for in said lease, subsequent to the execution of such lease until after ten years from the passage of this act.

SEC. 16. Any lessee hereinunder may abandon and surrender a lease at the expiration of any calendar year by filing with the county assessor of the county in which is situated the lands described in said lease, and with the surveyor general and the state controller, notices of said abandonment or surrender; but said notices must be filed at least sixty days before the expiration of said calendar year; and said abandonment and surrender shall not absolve the said lessee from the payment of any royalty which may be due at the end of said fiscal year, for minerals extracted from the waters or lands in this act specified.

SEC. 17. This act shall take effect immediately.

## THE RIGHT OF EMINENT DOMAIN.

An act to amend section twelve hundred and thirty-eight of the Code of Civil Procedure, relating to the purposes for which the right of eminent domain may be exercised, and repealing all acts and parts of acts in conflict with this act.

[Approved April 28, 1911.]

SECTION 1. Section twelve hundred and thirty-eight of the Code of Civil Procedure is hereby amended to read as follows:

§ 1238. Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following public uses:

4. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, by-roads, plank, and turnpike roads; paths and roads either on the surface, elevated, or depressed, for the use of bicycles, tricycles, motor cycles and other horseless vehicles, steam, electric, and horse railroads, canals, ditches, dams, poundings, flumes, aqueducts and pipes for irrigation, public transportation, supplying mines and farming

neighborhoods with water, and draining and reclaiming lands, and for floating logs and lumber on streams not navigable.

5. Roads, tunnels, ditches, flumes, pipes and dumping places for working mines; also outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines; also an occupancy in common by the owners or possessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines.

6. By-roads leading from highways to residences, farms, mines, mills, factories and buildings for operating machinery, or necessary to reach any property used for public purposes.

7. Telegraph and telephone lines, systems and plants.

9. Roads for transportation by traction engines or road locomotives.

10. Oil pipe lines.

11. Roads and flumes for logging or lumbering purposes.

12. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes and outlets natural or otherwise for supplying, storing and discharging water for the operation of machinery for the purpose of generating and transmitting electricity for the supply of mines, quarries, railroads, tramways, mills, and factories with electric power; and also for the applying of electricity to light or heat mines, quarries, mills, factories, incorporated cities and counties, villages or towns; and also for furnishing electricity for lighting, heating or power purposes to individuals or corporations, together with lands, buildings and all other improvements in or upon which to erect, install, place, use or operate machinery for the purpose of generating and transmitting electricity for any of the purposes or uses above set forth.

SEC. 2. All acts and parts of acts in conflict with this act are hereby repealed.

SEC. 3. This act shall take effect immediately.

An act to amend section 1239 of the Code of Civil Procedure, relating to proceedings to exercise the right of eminent domain.

[Approved April 5, 1911.]

SECTION 1. Section 1239 of the Code of Civil Procedure of the state of California, is hereby amended to read as follows:

§ 1239. The following is a classification of the estates and rights in lands subject to be taken for public use:

1. A fee simple, when taken for public buildings or grounds, or for permanent buildings, for reservoirs and dams, and permanent flooding occasioned thereby, or for an outlet for a flow, or a place for the deposit of debris or tailings of a mine:

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## TRIALS INVOLVING MINING CLAIMS.

An act to amend section 595 of the Code of Civil Procedure of this state relating to trials in civil causes.

[Approved May 1, 1911.]

SECTION 1. Section five hundred and ninety-five of the Code of Civil Procedure of California is hereby amended to read as follows:

§ 595. A motion to postpone a trial on the ground of the absence of evidence can only be made upon affidavit showing the materiality of the evidence expected to be obtained; and that due diligence has been used to procure it. A trial shall be postponed when it appears to the court that the attorney of record, party, or principal witness is actually engaged in attendance upon a session of the legislature of this state as a member thereof. The court may require the moving party, where application is made on account of the absence of a material witness, to state upon affidavit the evidence which he expects to obtain; and if the adverse party thereupon admits that such evidence would be given, and that it be considered as actually given on the trial, or offered and overruled as improper, the trial must not be postponed. In actions involving the title to mining claims, or involving trespass for damage upon

mining claims, if it be made to appear to the satisfaction of the court that, in order that justice may be done and the action fairly tried on its merits, it is necessary that further developments should be made, underground or upon the surface of the mining claims involved in said action, the court shall grant the postponement of the trial of the action, giving the party a reasonable time in which to prepare for trial and to do said development work.

## LOCATION OF MINING CLAIMS, MILL SITES, AND ASSESSMENT WORK.

An act to amend the Civil Code of California by adding a new title thereto, to be numbered title X, in part IV of division second, consisting of sections 1426, 1426a, 1426b, 1426c, 1426d, 1426e, 1426f, 1426g, 1426h, 1426i, 1426j, 1426k, 1426l, 1426m, 1426n, 1426o, 1426p, 1426q, 1426r, and 1426s, providing for the manner of locating lode and placer mining claims, tunnel rights, mill sites, and prescribing the character and amount of assessment work on mining claims, and providing for proofs of such work, and for the recordation of location notices, and proof of labor, and for the enforcement of contributions from delinquent co-owners of mining claims, and prescribing the duties of county recorders respecting the recording of location notices of, and proofs of labor on, mining claims, tunnel rights, and mill sites, and the fees to be charged therefor, and repealing acts in conflict herewith.

[Approved March 13, 1909.]

*The people of the state of California, represented in senate and assembly, do enact as follows:*

SECTION 1. The Civil Code of the state of California is hereby amended by adding a new title thereto, to be numbered title X, in part IV of second division, consisting of sections 1426, 1426a, 1426b, 1426c, 1426d, 1426e, 1426f, 1426g, 1426h, 1426i, 1426j, 1426k, 1426l, 1426m, 1426n, 1426o, 1426p, 1426q, 1426r, and 1426s, to read as follows:

§ 1426. Any person, a citizen of the United States, or who has declared his intention to become such, who discovers a vein or lode of quartz, or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposit, may locate a claim upon such vein or lode, by defining the boundaries of the claim, in the manner hereinafter described, and by posting a notice of such location, at the point of discovery, which notice must contain:

*First*—The name of the lode or claim.

*Second*—The name of the locator or locators.

*Third*—The number of linear feet claimed in length along the course of the vein, each way from the point of discovery, with the width on each side of the center of the claim, and the general course of the vein or lode, as near as may be.

*Fourth*—The date of location.

*Fifth*—Such a description of the claim by reference to some natural object, or permanent monument, as will identify the claim located.

§ 1426a. The locator must define the boundaries of his claim so that they may be readily traced, and in no case shall the claim extend more than fifteen hundred feet along the course of the vein or lode, nor more than three hundred feet on either side thereof, measured from the center line of the vein at the surface.

§ 1426b. Within thirty days after the posting of his notice of location upon a lode mining claim, the locator shall record a true copy thereof in the office of the county recorder of the county in which such claim is situated, for which service the county recorder shall receive a fee of one dollar.

§ 1426c. The location of a placer claim shall be made in the following manner: By posting thereon, upon a tree, rock in place, stone, post or monument, a notice of location, containing the name of the claim, name of locator or locators, date of location, number of feet or acreage claimed, such a description of the claim by reference to some natural object or permanent monument as will identify the claim located, and by marking the boundaries so that they may be readily traced; *provided*, that where the United States survey has been extended over the land embraced in the location, the claim may be taken by legal subdivisions and no other reference than those of said survey shall be required and the boundaries of a claim so located and

described need not be staked or monumented. The description by legal subdivisions shall be deemed the equivalent of marking.

§ 1426d. Within thirty days after the posting of the notice of location of a placer claim, the locator shall record a true copy thereof in the office of the county recorder of the county in which such claim is situated, for which service the recorder shall receive a fee of one dollar.

§ 1426e. The locator of a tunnel right or location, shall locate his tunnel right or location by posting a notice of location at the face or point of commencement of the tunnel, which must contain:

*First*—The name of the locator or locators.

*Second*—The date of the location.

*Third*—The proposed course or direction of the tunnel.

*Fourth*—A description of the tunnel, with reference to some natural object or permanent monument as shall identify the claim or tunnel right.

§ 1426f. The boundary lines of the tunnel shall be established by stakes or monuments placed along the lines at an interval of not more than six hundred feet from the face or point of commencement of the tunnel to the terminus of three thousand feet therefrom.

§ 1426g. Within thirty days after the posting the notice of location of the tunnel right or location, the locator shall record a true copy thereof, in the office of the county recorder of the county in which such claim is situated, for which service the recorder shall receive a fee of one dollar.

§ 1426h. If at any time the locator of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that his original location notice was defective, erroneous, or that the requirements of the law had not been complied with before filing; or in case the original notice was made prior to the passage of this act, and he shall be desirous of securing the benefit of this act, such locator, or his assigns, may file an additional notice, subject to the provisions of this act; *provided*, that such amended location notice does not interfere with the existing rights of others at the time of posting and filing such amended location notice, and no such amended location notice or the record thereof, shall preclude the claimant, or claimants from proving any such title as he or they may have held under previous locations.

§ 1426i. Where a locator, or his assigns, has the boundaries and corners of his claim established by a United States deputy mineral survey, or a licensed surveyor of this state, and his claim connected with the corner of the public or minor surveys of an established initial point, and incorporates into the record of the claim, the field notes of such survey, and attaches to and files with such location notice a certificate of the surveyor, setting forth: *first*, that said survey was actually made by him, giving the date thereof; *second*, the name of the claim surveyed and the location thereof; *third*, that the description incorporated in the declaratory statement is sufficient to identify; such survey and certificate becomes a part of the record, and such record is prima facie evidence of the facts therein contained.

§ 1426j. The proprietor of a vein or lode claim or mine, or the owner of a quartz mill or reduction works, or any person qualified by the laws of the United States, may locate not more than five acres of non-mineral land as a mill site. Such location shall be made in the same manner as hereinbefore required for locating placer claims.

§ 1426k. The locator of a mill site claim or location shall, within thirty days from the date of his location, record a true copy of his location notice with the county recorder of the county in which such location is situated, for which service the recorder shall receive a fee of one dollar.

§ 1426l. The amount of work done or improvements made during each year to hold possession of a mining claim shall be that prescribed by the laws of the United States, to wit: One hundred dollars annually.

§ 1426m. Whenever [a] mine owner, company, or corporation shall have performed the labor and made the improvements required by law upon any mining claim, the person in whose behalf such labor was performed or improvements made, or some one in his behalf, shall within thirty days after the time limited for performing

such labor or making such improvements make and have recorded by the county recorder, in books kept for that purpose, in the county in which such mining claim is situated, an affidavit setting forth the value of labor or improvements made, the name of the claim, and the name of the owner or claimant of said claim at whose expense the same was made or performed. Such affidavit, or a copy thereof, duly certified by the county recorder, shall be prima facie evidence of the performance of such labor or the making of such improvements, or both.

§ 1426*n*. For recording the affidavit herein required, the county recorder shall receive a fee of fifty cents.

§ 1426*o*. Whenever a co-owner or co-owners of a mining claim shall give to a delinquent co-owner or co-owners the notice in writing or notice by publication provided for in section 2324, Revised Statutes of the United States, an affidavit of the person giving such notice, stating the time, place, manner of service, and by whom and upon whom such service was made, shall be attached to a true copy of such notice, and such notice and affidavit must be recorded in the office of the county recorder, in books kept for that purpose, in the county in which the claim is situated, within ninety days, after the giving of such notice; for the recording of which said recorder shall receive the same fees as are now allowed by law for recording deeds; or if such notice is given by publication in a newspaper, there shall be attached to a printed copy of such notice an affidavit of the printer or his foreman, or principal clerk of such paper, stating the date of the first, last and each insertion of such notice therein, and where the newspaper was published during that time, and the name of such newspaper. Such affidavit and notice shall be recorded as aforesaid, within one hundred and eighty days after the first publication thereof. The original of such notice and affidavit, or a duly certified copy of the record thereof, shall be prima facie evidence that the delinquent mentioned in section 2324 has failed or refused to contribute his proportion of the expenditure required by that section, and of the service of publication of said notice: *provided*, the writing or affidavit hereinafter provided for is not of record. If such delinquent shall, within the ninety days required by section 2324, aforesaid, contribute to his co-owner or co-owners, his proportion of such expenditures, and also all costs of service of the notice required by this section, whether incurred for publication charges, or otherwise, such co-owner or co-owners shall sign and deliver to the delinquent or delinquents a writing stating that the delinquent or delinquents by name has within the time required by section 2324 aforesaid, contributed his share for the year -----, upon the ----- mine, and further stating therein the district, county and state wherein the same is situated, and the book and page where the location notice is recorded, if said mine was located under the provisions of this act; such writing shall be recorded in the office of the county recorder of said county, for which he shall receive the same fees as are now allowed by law for recording deeds. If such co-owner or co-owners shall fail to sign and deliver such writing to the delinquent or delinquents within twenty days after such contribution, the co-owner or co-owners so failing as aforesaid shall be liable to the penalty of one hundred dollars, to be recovered by any person for the use of the delinquent or delinquents in any court of competent jurisdiction. If such co-owner or co-owners fail to deliver such writing within said twenty days, the delinquent, with two disinterested persons having personal knowledge of such contribution, may make affidavit setting forth in what manner, the amount of, to whom, and upon what mine, such contribution was made. Such affidavit, or a record thereof, in the office of the county recorder of the county in which such mine is situated, shall be prima facie evidence of such contribution.

§ 1426*p*. The record of any location of a mining claim, mill site or tunnel right, in the office of the county recorder, as herein provided shall be received in evidence, and have the same force and effect in the courts of the state as the original notice.

§ 1426*q*. Copies of the records of all instruments required to be recorded by the provisions of this act, duly certified by the recorder, in whose custody such records are, may be read in evidence, under the same circumstances and rules as are now, or may be hereafter provided by law, for using copies of instruments relating to real estate, duly executed or acknowledged or proved and recorded.



§ 1426r. The provisions of this act shall not in any manner be construed as affecting or abolishing any mining district or the rules and regulations thereof within the state of California.

§ 1426s. The failure or neglect of any locator of a mining claim to perform development work of the character, in the manner and within the time required by the laws of the United States, shall disqualify such locators from relocating the ground embraced in the original location or mining claim or any part thereof under the mining laws, within three years after the date of his original location and any attempted relocation thereof by any of the original locators shall render such location void.

SEC. 2. All acts and parts of acts in conflict with this act, are hereby repealed.

SEC. 3. This act shall take effect and be in force on and after July 1, 1909.

## REGULATIONS PROVIDED FOR CONTROL OF EXPLOSIVES.

An act relating to explosives and prescribing regulations for the transportation, storage and selling of explosives, and providing penalties for the violation of this act.

[Approved March 20, 1911.]

*The people of the State of California, represented in senate and assembly, do enact as follows:*

SECTION 1. The term "explosive" or "explosives" whenever used in this act, shall include gunpowder, blasting powder, dynamite, gun-cotton, nitroglycerine or any compound thereof, fulminate, and every explosive substance having an explosive power equal to or greater than black blasting powder, and any substance intended to be used by exploding or igniting the same to produce a force to propel missiles, or rend apart substances but does not include said substances, or any of them, in the form of fixed ammunition for small arms. The term "person" whenever used herein shall be held to include corporations as well as natural persons; words used in the singular number to include the plural and the plural the singular. The words "explosive manufacturing plant" shall be understood to include all the land used in connection with the manufacture and storage of explosives thereat.

SEC. 2. Except only at an explosive manufacturing plant, no person shall have, keep or store, at any place within the state, any explosives, unless such explosives are completely enclosed and encased in tight metal, wooden or fibre containers, and, except while being transported, or within the custody of the common carrier pending delivery to consignee, shall be kept and stored in a magazine constructed and operated as hereinafter described, and no person having in his possession or control, any explosives, shall under any circumstances permit or allow any grains or particles thereof to be or remain on the outside or about the containers, in which such explosives are contained.

SEC. 3. Magazines in which explosives may lawfully be stored or kept shall be two classes, as follows:

(a) Magazines of the first class shall consist of those containing explosives exceeding one hundred pounds, and shall be constructed wholly of brick, wood covered, with iron, or other fireproof material, and must be fireproof, and, except magazines where gunpowder or black blasting powder only is stored must be bullet proof, and shall have no openings except for ventilation and entrance. The doors of such magazine must be fireproof and bullet proof, and at all times kept closed and locked, except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons lawfully entitled to enter the same. Every such magazine shall have sufficient openings for ventilation thereof, which must be screened in such manner as to prevent the entrance of sparks or fire through the same. Upon each side of such magazine there shall at all times be kept conspicuously posted a sign, with the words, "magazine," "explosives," "dangerous," legibly printed thereon in letters not less than six inches high. No matches, fire or lighting device of any kind except electric light shall at any time be permitted in any such magazine. No package of explosives shall at any time be opened in any magazine. No blasting

caps, or other detonating or fulminating caps, or detonators, or electric fuzes, shall be kept or stored in any magazine in which explosives are kept or stored, but such caps, detonators or fuzes may be kept or stored in a magazine constructed as above provided which must be located at least one hundred feet from any magazine in which explosives are kept or stored. Magazines in which explosives are kept or stored must be detached and must be located at least one hundred feet from any other structure.

(b) On and after January 1, 1919, the quantity of explosives that may be lawfully had, kept or stored in any magazine shall depend upon the distance that such magazine is situated from buildings, highways, or railroads, and upon the protection afforded by natural or efficient artificial barricades to such buildings, highways or railroads. Whenever any of the quantities given in column one of the quantity and distance table hereinafter set forth is had, kept or stored in any magazine in this state, the distance that any quantity given in column one of said table may be lawfully had, kept or stored from buildings is the distance set opposite said quantity in column two of said table, and the distance that any quantity in column one of said table, may be lawfully had, kept or stored from railroads is the distance set opposite said quantity in column three of said table, and the distance that any quantity given in column one of said table may be lawfully had, kept or stored from highways is the distance set opposite said quantity in column four of said table. The quantity and distance table governing the keeping or storing of explosives is as follows:

QUANTITY AND DISTANCE TABLE.

Column 1 Quantity that may be lawfully kept or stored from nearest building, highway or railroad				Column 2	Column 3	Column 4
Blasting caps		Other explosives		Distance from nearest building, feet	Distance from nearest railroad, feet	Distance from nearest highway, feet
Number over	Number not over	Pounds over	Pounds not over			
1,000	5,000	-----	-----	30	20	10
5,000	10,000	-----	-----	60	40	20
10,000	20,000	-----	-----	120	70	35
20,000	25,000	-----	50	145	90	45
25,000	50,000	50	100	240	140	70
50,000	100,000	100	200	360	220	110
100,000	150,000	200	300	520	310	150
150,000	200,000	300	400	640	380	190
200,000	250,000	400	500	720	430	220
250,000	300,000	500	600	800	480	240
300,000	350,000	600	700	860	520	260
350,000	400,000	700	800	920	550	280
400,000	450,000	800	900	980	590	300
450,000	500,000	900	1,000	1,020	610	310
500,000	750,000	1,000	1,500	1,060	640	320
750,000	1,000,000	1,500	2,000	1,200	720	360
1,000,000	1,500,000	2,000	3,000	1,300	780	390
1,500,000	2,000,000	3,000	4,000	1,420	850	420
2,000,000	2,500,000	4,000	5,000	1,500	900	450
		5,000	6,000	1,560	940	470
		6,000	7,000	1,610	970	490
		7,000	8,000	1,660	1,000	500
		8,000	9,000	1,700	1,020	510
		9,000	10,000	1,740	1,040	520
		10,000	20,000	1,780	1,070	530
		20,000	30,000	2,110	1,270	630
		30,000	40,000	2,410	1,450	720
		40,000	50,000	2,680	1,610	800
		50,000	60,000	2,920	1,750	880
		60,000	70,000	3,130	1,880	940
		70,000	80,000	3,310	1,990	1,000
		80,000	90,000	3,460	2,080	1,040
		90,000	100,000	3,580	2,150	1,080
		100,000	200,000	3,800	2,280	1,140
		200,000	300,000	4,310	2,590	1,300

Whenever the building, railroad or highway to be protected is effectually screened from the magazine, where explosives are had, kept or stored, either by natural features of the ground or by an efficient artificial barricade of such height that any straight line drawn from the top or any side wall of the magazine to any part of the building to be protected, will pass through such intervening natural or efficient artificial barricade, and any straight line drawn from the top of any side wall of the magazine to any point twelve feet above the center of the railroad or highway to be protected will pass through such intervening natural or efficient artificial barricade, the applicable distances given in column two, three and four of the quantity and distance table may be reduced one-half.

If at any time the distances from a magazine to a building, highway or railroad be decreased through the construction of a new building, highway or railroad or by any other means, then the amounts of explosives which may be lawfully had, kept or stored in said magazine must be reduced to correspond with the quantity and distance table.

The term "building" when used in the foregoing table shall be held to mean and include only any building regularly occupied in whole or in part as a habitation for human beings, and any store, church, schoolhouse, railway station or other public place of assembly.

The term "highway" when used in the foregoing table shall be held to mean public streets or public road, and shall not include roads constructed and maintained by private persons.

The term "railroad" when used in the foregoing table shall be held to mean and include any steam, electric or other railroad that carries passengers or articles of commerce for hire.

The term "efficient artificial barricade" when used in the foregoing shall be held to mean an artificial mound or properly revetted wall of earth of a thickness of not less than three feet. The provisions of this subsection (b) shall not apply to mining or quarrying operations. Nothing contained in this subsection (b) shall be held to prohibit the keeping or storing of explosives at any explosive manufacturing plant which was actually used in manufacturing explosives prior to the fifteenth day of April, nineteen hundred seventeen.

(c) Magazines of the second class shall consist of a stout box, and not more than one hundred pounds of explosives shall at any time be kept or stored therein, and, except when necessarily opened for use by authorized persons, shall at all times be kept securely locked. Upon each such magazine there shall at all times be kept conspicuously posted a sign with the words, "magazine," "explosives," "dangerous," legibly printed thereon.

Nothing in this section contained shall be held to prohibit the keeping or storing of explosives in any tunnel, where no person or persons are employed; *provided, always*, that any tunnel so used for the storage of explosives shall have fireproof doors, which must at all times be kept closed and locked, except when necessarily opened for the purpose of storing or removing explosives therein or therefrom, by persons lawfully entitled to enter the same. The door of such tunnel magazine shall at all times have legibly printed thereon the words, "magazine," "explosives," "dangerous."

SEC. 4. Any person violating or failing to comply with any of the provisions of sections two and three of this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars, and not more than one thousand dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

SEC. 5. It shall be unlawful to transport, carry or convey, any explosives between any places within this state, on any vessel, car or other vehicle of any description, operated by common carrier, which vessel, car or vehicle is carrying passengers for hire; *provided*, that it shall be lawful to transport on any such vessel, car or vehicle, small arms ammunition in any quantity, and such fuses, torpedoes, rockets or other signal devices, as may be essential to promote safety in operation, and properly packed and marked samples for laboratory examination, not exceeding a net weight

of one-half pound each, and not exceeding twenty samples at one time, in a single vessel, car or vehicle, but such samples shall not be carried in that part of the vessel, car or vehicle, which is intended for the transportation of passengers for hire: *provided, further*, that nothing in this section shall be construed to prevent the transportation of military or naval forces with their accompanying munitions of war on passenger equipment vessels, cars or vehicles; *provided, further*, that the transportation of explosives on any freight train in this state that carries passengers for hire in a car or caboose attached to the rear of such train, shall not be held or construed to violate the provisions of this act.

SEC. 6. The railroad commission of this state is hereby empowered to make, publish and promulgate such regulations as are not in conflict with this act and as in the judgment of said commission may tend to the safe packing, loading, storage and transportation of the explosives defined by section one of this act.

SEC. 7. It shall be unlawful to transport, carry or convey liquid nitroglycerine, fulminate in bulk, in dry condition, or other like explosive between any places within this state, on any vessel, car or vehicle of any description, operated by common carrier in the transportation of passengers, or articles of commerce by land or water.

SEC. 8. Every package containing explosives or other dangerous articles when presented to a common carrier for shipment shall have plainly marked on the outside thereof, the contents thereon, and it shall be unlawful for any person to deliver for transportation to any common carrier engaged in commerce by land or water, or to cause to be delivered or to carry any explosive or other dangerous article, under any false or deceptive marking, description, invoice, shipping order or other declaration, or without informing the agent of such carrier of the true character thereof, at, or before the time of such delivery or carriage is made.

SEC. 9. Any person who wilfully violates or causes to be violated any of the foregoing provisions of sections 5, 6, 7 and 8, of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished for each offense by fine not exceeding two thousand dollars, or by imprisonment not exceeding eighteen months, or by both such fine and imprisonment in the discretion of the court.

SEC. 10. Every person selling, giving away, or delivering explosives within this state, shall keep at all times an accurate journal or book of record, in which must be entered from time to time, as it is made, each and every sale, delivery, gift, or other disposition made by such person in the course of business, or otherwise, of any quantity of such explosive substance. Such journal or record book must show in a legible handwriting, to be entered therein at the time, a complete history of each transaction, stating name and quantity of explosives sold, delivered, given away, or otherwise disposed of; name, place of residence, and business of the purchaser or transferee, name of individual to whom delivered, with his or her address. Such journal or record book must be kept by the person so selling, delivering or otherwise disposing of such explosives, in his or their principal office or place of business, at all times subject to the inspection and examination of the police authorities of the state, county or municipality where same is situated, on proper demand therefor. In addition to keeping the record above provided, it shall be unlawful for any person to sell, give away or deliver any explosives within this state, without taking from the person to whom such explosives are sold, given away or delivered within this state, a statement in writing, showing the name and the address of the person to whom such explosives are sold, given away or delivered, and the place where and the purpose for which such explosives are intended for use, which statement shall be signed by the person to whom such explosives are sold, given away or delivered within this state, to be witnessed by two witnesses, known to the person selling, giving away or delivering such explosives, to be residents of the county where such explosives, as shown by such statement, are intended for use, who shall certify that the person to whom such explosives are to be sold, given away or delivered is personally known to each of said witnesses, and that to the best of his knowledge and belief, the explosives are required by such person for the uses and purposes set forth in the statement, which

said statement shall at all times be kept on file in the principal office or place of business of the person so selling, giving away or delivering such explosives, subject to the inspection of the police authorities of the state, county or municipality where the same is situated, on proper demand made therefor; *provided*, that nothing in this section shall be held to apply to the delivery of explosives to any person or carrier for the purpose of being transported from a place within this state to any other place within this state; and *provided, further*, that nothing in this section contained shall apply to interstate commerce.

Every person selling, giving away or delivering any explosives without complying with all the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than one hundred dollars, and not more than two thousand dollars, or by imprisonment of not less than six months, or by both such fine and imprisonment in the discretion of the court.

In addition to such imprisonment and as cumulative penalty such person so offending shall forfeit for each offense, the sum of two hundred and fifty dollars, to be recovered in any court of competent jurisdiction, and the party instituting the action for such forfeiture shall not be entitled to dismiss same, without the consent of the court before which the suit has been instituted; nor shall any judgment recovered be set aside, satisfied or discharged save by order of such court, after full payment into court, and all moneys so collected must be paid to the party bringing suit.

SEC. 11. Repealed; Chap. 538, Stats. 1917.

SEC. 12. No person, except a peace officer or a person authorized so to do by the owner thereof, or his agent, shall enter any explosive manufacturing plant, magazine or car containing explosives in this state, and any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in an amount not exceeding one thousand dollars or by imprisonment not exceeding three months, or by both such fine and imprisonment.

SEC. 13. No person shall discharge any firearms within five hundred feet of any magazine or of any explosive manufacturing plant, and any person wilfully violating any of the provisions of this section shall be deemed guilty of a misdemeanor and fined not exceeding one thousand dollars, or by imprisonment not exceeding one year, or by both such fine and imprisonment.

SEC. 14. No person shall wilfully carry any explosive on his person within this state in any car, vessel or vehicle that carries passengers for hire, or place or carry any explosive while on board any such car, vessel or vehicle, in any hand baggage, roll or container, or place any explosive in any baggage thereafter checked with any common carrier and any person violating any of the provisions of this section shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment in the penitentiary not exceeding two years.

SEC. 15. Nothing in this act contained shall prevent the operation of, or modify, alter, set aside or supersede the provisions of any municipal ordinance respecting the delivery, storing and handling of explosives.

SEC. 16. Nothing in this act contained shall regulate or apply to any shipment of explosives from a point within this state, consigned to a point without this state, over a line or lines of one or more common carriers.

## REGULATION OF HOURS OF EMPLOYMENT.

An act regulating the hours of employment in underground mines, underground workings, whether for the purpose of tunnelling, making excavations, or to accomplish any other purpose or design, or in smelting and reduction works.

[Approved May 30, 1913.]

*The people of the state of California do enact as follows:*

SECTION 1. That the period of employment for all persons who are employed or engaged in work in underground mines in search of minerals, whether base or precious, or who are engaged in such underground mines for other purposes, or who

are employed or engaged in any other underground workings whether for the purpose of tunneling, making excavations or to accomplish any other purpose or design, or who are employed in smelters and other institutions for the reduction or refining of ores or metals, shall not exceed eight hours within any twenty-four hours, and the hours of employment in such employment or work day shall be consecutive, excluding, however, any intermission of time for lunch or meals; *provided*, that in case of emergency where life or property is in imminent danger, the period may be a longer time during the continuance of the exigency or emergency.

SEC. 2. Any person who shall violate any provision of this act, and any person who as foreman, manager, director or officer of a corporation, or as the employer or superior officer of any person, shall command, persuade or allow any person to violate any provision of this act, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) or by imprisonment of not more than three months. And the court shall have discretion to impose both fine and imprisonment as herein provided.

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

### PROVIDING FOR MINE EXITS.

An act requiring compensation for causing death by wrongful act, neglect or default.

[Approved April 26, 1862.]

SECTION 1. It shall not be lawful for any corporation, association, owner, or owners of any quartz mining claim within the state of California, where such corporation, association, owner or owners employ twelve men daily, to sink down into such mine or mines any perpendicular shaft or incline beyond a depth from the surface of three hundred feet without providing a second mode of egress from such mine, by shaft or tunnel, to connect with the main shaft at a depth of not less than one hundred feet from the surface.

SEC. 2. It shall be the duty of each corporation, association, owner or owners of any quartz mine or mines in this state, where it becomes necessary to work such mines beyond the depth of three hundred feet, and where the number of men employed therein daily shall be twelve or more, to proceed to sink another shaft or construct a tunnel so as to connect with the main working shaft of such mine as a mode of escape from underground accident, or otherwise. And all corporations, associations, owner or owners of mines, as aforesaid, working at a greater depth than three hundred feet, not having any other mode of egress than from the main shaft, shall proceed as herein provided.

SEC. 3. When any corporation, association, owner or owners of any quartz mine in this state shall fail to provide for the proper egress, as herein contemplated, and where any accident shall occur, or any miner working therein shall be hurt or injured, and from such injury might have escaped if the second mode of egress had existed, such corporation, association, owner or owners of the mine where the injuries shall have occurred shall be liable to the person injured in all damages that may accrue by reason thereof; and an action at law in a court of competent jurisdiction may be maintained against the owner or owners of such mine, which owners shall be jointly or severally liable for such damages. And where death shall ensue from injuries received from any negligence on the part of the owners thereof, by reason of their failure to comply with any of the provisions of this act, the heirs or relatives surviving the deceased may commence an action for the recovery of such damages.

SEC. 4. This act shall take effect and be in force six months from and after its passage.

## TELEPHONE SYSTEM IN MINES.

An act providing for the establishment and maintenance of a telephone system in mines and prescribing a penalty for the violation thereof.

[Approved June 13, 1913.]

*The people of the state of California do enact as follows:*

SECTION 1. In all mines operated and worked in this state where a depth of more than five hundred feet underground has been reached a telephone system must be established, equipped and maintained by the owners or lessees thereof with stations at each working level below the depth aforesaid, communicating with a station thereof on the surface of any such mine.

SEC. 2. The failure or refusal of any owner or lessee to install or maintain such telephone system shall be deemed guilty of misdemeanor and punished accordingly.

## FENCING ABANDONED SHAFTS.

An act to provide for the covering or fencing of abandoned mining shafts, pits or excavations, the penalty, and also the penalty for removing or destroying the covering or fencing from same.

[Approved March 20, 1903.]

*The people of the state of California, represented in senate and assembly, do enact as follows:*

SECTION 1. All abandoned mining shafts, pits or other abandoned excavations dangerous to passers-by or live stock shall be securely covered or fenced, and kept so, by the owners of the land or persons in charge of the same, on which such shafts, pits or other excavations are located. Any person or persons failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor.

SEC. 2. All abandoned mining shafts, pits or other excavations situated on unoccupied public lands may be securely covered or fenced by order of the board of supervisors of the county wherein the same is situated, and it shall be the duty of the board of supervisors to keep the same securely fenced or covered whenever it appears to them, by proof submitted, that the same is dangerous or unsafe to man or beast. The cost of said covering or fencing to be a county charge.

SEC. 3. Any person or persons maliciously removing or destroying any covering or fencing placed around or over any shaft, pit or other excavation, as hereinbefore provided, shall be deemed guilty of a misdemeanor.

SEC. 4. This act shall take effect six months from the day of passage.

## MINE REGULATIONS—COAL MINES.

[Stats. 1873-74, page 726.]

SECTION 1. The owner or agent of every coal mine shall make or cause to be made an accurate map or plan of the workings of such coal mine, on a scale of one hundred feet to the inch.

SEC. 2. A true copy of which map or plan shall be kept at the office of the owner or owners of the mine, open to the inspection of all persons, and one copy of such map or plan shall be kept at the mines by the agent or other person having charge of the mines, open to the inspection of the workmen.

SEC. 3. The owner or agent of every coal mine shall provide at least two shafts or slopes, or outlets, separated by natural strata of not less than one hundred and fifty feet in breadth, by which shafts, slopes, or outlets distinct means of ingress and egress are always available to the persons employed in the coal mine; *provided*, that if a new tunnel, slope or shaft will be required for the additional opening, work upon the same shall commence immediately after the passage of this act, and continue until its final completion, with reasonable dispatch.

SEC. 4. The owner or agent of every coal mine shall provide and establish for every such mine an adequate amount of ventilation, of not less than fifty-five cubic

feet per second of pure air, or thirty-three hundred feet per minute, for every fifty men at work in such mine, and as much more as circumstances may require, which shall be circulated through to the face of each and every working place throughout the entire mine, to dilute and render harmless and expel therefrom the noxious, poisonous gases, to such an extent that the entire mine shall be in a fit state for men to work therein, and be free from danger to the health and lives of the men by reason of said noxious and poisonous gases, and all workings shall be kept clear of standing gas.

SEC. 5. To secure the ventilation of every coal mine, and provide for the health and safety of the men employed therein, otherwise and in every respect, the owner, or agent, as the case may be, in charge of every coal mine, shall employ a competent and practical inside overseer, who shall keep a careful watch over the ventilating apparatus, over the air ways, the traveling ways, the pumps and sumps, the timbering, to see as the miners advance in their excavations that all loose coal, slate, or rock overhead is carefully secured against falling; over the arrangements for signaling from the bottom to the top, and from the top to the bottom of the shaft or slope, and all things connected with the [and] appertaining to the safety of the men at work in the mine. He, or his assistants, shall examine carefully the workings of all mines generating explosive gases, every morning before the miners enter, and shall ascertain that the mine is free from danger, and the workmen shall not enter the mine until such examination has been made and reported, and the cause of danger, if any, be removed.

SEC. 6. The overseer shall see that hoisting machinery is kept constantly in repair and ready for use, to hoist the workmen in or out of the mine.

SEC. 7. The word "owner" in this act shall apply to lessee as well.

SEC. 8. For any injury to person or property occasioned by any violation of this act, or any wilful failure to comply with its provisions, a right of action shall accrue to the party injured for any direct damage he or she may have of the overseer of any coal mine, he shall be liable to conviction of misdemeanor, and punished according to law; *provided*, that if such wilful failure or negligence is the cause of the death of any person, the overseer, upon conviction, shall be deemed guilty of manslaughter.

SEC. 10. All boilers used for generating steam in and about coal mines shall be kept in good order, and the owner or agent thereof shall have them examined and inspected by a competent boilermaker, as often as once in three months.

SEC. 11. This act shall not apply to opening a new coal mine.

## WEEKLY DAY OF REST.

[Stats. 1893, page 54.]

SECTION 1. Every person employed in any occupation of labor shall be entitled to one day's rest therefrom in seven, and it shall be unlawful for any employer of labor to cause his employees, or any of them, to work more than six days in seven; *provided, however*, that the provisions of this section shall not apply to any case of emergency.

SEC. 2. For the purposes of this act, the term day's rest shall mean and apply to all cases, whether the employee is engaged by the day, week, month, or year, and whether the work performed is done in the day or night time.

SEC. 3. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor.

## MINERS' HOSPITAL.

[Stats. 1881, page 81.]

SECTION 1. There shall be erected as soon as conveniently may be, upon some suitable site, a public hospital and asylum for the reception, care, medical, and surgical treatment, and relief of the sick, injured, disabled, and aged miners which shall be known as the "California State Miners' Hospital and Asylum."

\* \* \* \* \*



SEC. 5. Indigent miners shall be charged for medical attendance, surgical operations, board, and nursing while residents in the hospital and asylum, no more than the actual cost; paying patients, whose friends can pay their expenses, shall pay according to the terms directed by the trustees.

SEC. 6. The several boards of supervisors of counties, or any constituted authority in the state having care and charge of any indigent sick, or aged person or persons, if satisfactorily proven by them to have been miners, shall have authority to send to the "California State Miners' Hospital and Asylum" such persons, and they shall be severally chargeable with the expenses of the care, maintenance, and treatment, and removal to and from the hospital and asylum of such patients.

### LARCENY OF GOLD-DUST AND AMALGAM.

An act supplementary to an act entitled "An act concerning crimes and punishments," passed April 16, 1850.

[Approved March 20, 1872; 1871-2, 435.]

SECTION 1. Every person who shall feloniously steal, take and carry away, or attempt to take, steal, and carry from any mining claim, tunnel, sluice, under-current, riffle-box, or sulphurate (sulphuret) machine any gold-dust, amalgam, or quicksilver, the property of another, shall be deemed guilty of grand larceny, and upon conviction thereof shall be punished by imprisonment in the state prison for any term of not less than one year nor more than fourteen years.

SEC. 2. This act shall be in force from and after its passage.

### MINER'S INCH DEFINED.

An act fixing and defining a miner's inch of water.

[Approved March 23, 1901.]

*The people of the state of California, represented in senate and assembly, do enact as follows:*

SECTION 1. The standard miner's inch of water shall be equivalent or equal to one and one-half cubic feet of water per minute, measured through any aperture or orifice.

SEC. 2. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 3. This act shall be in effect and force sixty days from and after its passage.

## FORMS FOR LOCATION NOTICES.

The following forms for mineral location notices have been found to fill the requirements of the statutes:

### NOTICE OF QUARTZ LODE LOCATION.

*Notice is hereby given*, That I, \_\_\_\_\_, a citizen of the United States, have discovered a vein of rock in place, carrying gold, silver, copper, and other valuable deposits, upon which I have erected a discovery monument and posted this notice, as hereinafter set forth; that in accordance with the provision of Chapter 6, Title 32 of the Revised Statutes of the United States and the laws of the State of California, I hereby claim fifteen hundred linear feet of said vein, measured thereon as hereinafter set forth. Said discovery was made on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. Immediately upon making the same, and on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, I erected at the point of discovery, a substantial monument, consisting of a mound of rocks and \_\_\_\_\_ and posted thereon this notice.

The \* general course of said vein is \_\_\_\_\_ and \_\_\_\_\_. I claim in length thereon \_\_\_\_\_ feet \_\_\_\_\_ and \_\_\_\_\_ feet \_\_\_\_\_ from said discovery monument. I also claim three hundred feet on each side of the center of the vein. This vein or claim shall be known as and called the \_\_\_\_\_. It is situated in \_\_\_\_\_ Mining District, and in † Sec. \_\_\_\_\_, Tp. \_\_\_\_\_, R. \_\_\_\_\_, B. and M., in \_\_\_\_\_ County, California, and the discovery monument \_\_\_\_\_ being placed about § \_\_\_\_\_

from \_\_\_\_\_

That the following is a description of said location as marked on the ground: ‡ commencing at the \_\_\_\_\_ of said claim, a \_\_\_\_\_ from which initial point the discovery monument is distant about \_\_\_\_\_ feet in a \_\_\_\_\_ direction; \_\_\_\_\_ thence || \_\_\_\_\_

Dated and posted on the ground, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Witness \_\_\_\_\_

\_\_\_\_\_  
Locator.

\*Make this description in accordance with the facts, as "The general course of said vein is north and south. I claim in length thereon 500 feet north and 1,000 feet south from said discovery monument."

†If the claim is upon surveyed land, give the section, township and range, if possible. This is not required by law, but makes a much better description.

§Here refer to some natural object or permanent monument so as to identify the locality of the claim, in compliance with section 2324, Revised Statutes U. S. A road, house, tree, known mountain or peak, government corner, mill, or known mining claim, are such objects or monuments. As, "About one mile directly east from John Doe's quartz mill and 400 rods west from the Last Hope mine," etc.

||Here state: "Commencing at the N. E. corner of said claim, a mound of rocks 4 ft high," or at any other corner or point in the boundary; give the distance and direction from this initial monument to the discovery monument, and then locate the discovery with reference to some natural object or permanent monument.

||Here follows a description of the claim from the initial monument. For instance: "Thence 600 ft. northwesterly to the N. W. corner of said claim, at which point is a mound of rocks 2½ ft. high, marked so-and-so (if marked); thence 1,500 ft. southwesterly to the S. W. corner of said claim, being a mound of rocks," etc.; so going around the claim to the point of beginning.

## NOTICE OF LOCATION OF PLACER CLAIM.

Notice is hereby given, That \_\_\_\_\_ day of \_\_\_\_\_ citizen\_\_\_\_ of the United States, h\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, discovered a valuable placer deposit within the limits of this claim; that by virtue of said discovery, \_\_\_\_\_ ha\_\_\_\_ located, and hereby locate and claim the following described land, situate in \_\_\_\_\_ Mining District, \_\_\_\_\_ County, California, to wit: \* \_\_\_\_\_ of section \_\_\_\_\_ Township \_\_\_\_\_, Range \_\_\_\_\_, B. and M., containing \_\_\_\_\_ acres.† Said claim is hereby named \_\_\_\_\_ Placer Claim. Said claim is marked upon the ground as follows: ‡ \_\_\_\_\_ This notice is posted on a mound of rocks at the point of discovery, situated § \_\_\_\_\_ Dated and posted on the ground, this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Locator.

\*The statute provides that the locator must give "a description of the claim by reference to legal subdivisions of sections, if the location is made in conformity with the public surveys; otherwise a description with reference to some natural object or permanent monument as will identify the claim."

†When not described by legal subdivisions, the description should conform to that contained in the final certificate of location of a lode claim.

‡The statute provides that, whether described by legal subdivisions or not, the location shall be marked by the locator on the ground, and as the affidavit to be filed later is not required to contain a description of the claim, we think this notice should state how the location is marked: as, for instance, "At the N. E. corner of said tract a mound of rocks 3 ft. high, marked so-and-so (if marked), and at the N. W. corner a stake in a mound of rocks, marked," etc., and so on for each monument enclosing the claim.

§Here state where the discovery is located, as, for instance, "20 feet S. W. of the N. E. corner monument."

**Note:** A duplicate of either of these notices must be filed for record with the county recorder within 30 days from the discovery; and the locator is allowed 30 days to mark his location on the ground.

The foregoing form of placer notice may be used for location of all deposits which are classed under placer laws.

## "BLUE SKY LAW."

### CHAPTER 532.

An act providing for the regulation and supervision of companies, brokers, agents, and sales of securities as the same are therein defined, and to prevent fraud in the sale of securities; providing for the enforcement of said act and penalties for the violation thereof; and creating a state corporation department and the office of commissioner of corporations.

[Approved May 18, 1917. In effect July 27, 1917.]

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known as the "corporate securities act."

#### Words defined.

SEC. 2. Words used in this act in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter, and in the neuter, the masculine and feminine; the singular number includes the plural, and the plural, the singular; "writing" includes "printing" and "typewriting"; "oath" includes "affirmation"; the word "county" includes "city and county"; and "territory" includes "district." The following words have in this act the signification attached to them in this section, unless otherwise apparent from the context:

1. The word "department" means the "state corporation department" created by this act.

2. The word "commissioner" means the "commissioner of corporations."

#### "Company."

3. The word "company" includes all domestic and foreign, private corporations, associations, joint stock companies, and partnerships, of every kind, and also trustees, as hereinafter defined; excepting therefrom:

(a) All national banking associations and other corporations organized and existing under and by virtue of the acts of the congress of the United States;

(b) All public utilities subject to the jurisdiction, control, and regulation of the railroad commission of this state and to the public utilities act;

(c) All corporations transacting a banking or insurance business within this state;

(d) All corporations, associations, or societies transacting business under the supervision, examination, and license of the bureau of building and loan supervision; and

(e) Every corporation organized under the laws of this state exclusively for the purposes provided in any of the following titles, to wit: XIa, XII, XIIa, XIV, XXI, XXII, of Part IV, Division First, of the Civil Code, and in accordance with the provisions of such titles.

#### "Trust."

4. The word "trust" as used in this act includes all voluntary trusts, as the same are defined in the Civil Code, expressly created by or declared in an instrument in writing, other than a will or a judicial writ, order, decree, or judgment, to carry on any business or to secure the payment or repayment of money.

5. The word "trustee," except as hereinafter used in subdivision 9 of this section, includes only persons or companies executing trusts as hereinbefore defined.

#### "Security."

6. The word "security" includes:

(a) All shares or other interests or rights into which the capital, capital stock, or property of companies or rights of stockholders or members thereof are divided, including all treasury shares and shares of their own capital stock purchased or otherwise acquired by companies upon delinquent assessment sales or in any other lawful manner, and all certificates and other instruments issued by them or their authority, evidencing or representing such shares, interests, or rights;

(b) All bonds, debentures, and evidences of indebtedness issued by any company; and

(c) Any instrument issued or offered to the public by any company, evidencing or representing any right to participate or share in the profits or earnings or the

distribution of assests of any business carried on for profit; excepting therefrom the following:

1. Bills of exchange and promissory notes not offered to the public by the drawer, maker, or underwriter thereof, and all mortgages and deeds of trust of property situated in this state, executed to secure the payment thereof; and

2. Any security listed in any standard manual of information, as to which the commissioner shall first make and file his written finding to the effect that such security is fully and accurately described in such manual and that a sale thereof will not, in his opinion, work a fraud upon the purchaser thereof; *provided*, that if such finding shall thereafter be vacated or set aside, such security shall not thereafter be deemed to be included within this exception.

**"Sale."**

7. A "sale," within the meaning of this act, includes every contract by which, for a pecuniary consideration, called a price, one transfers to another an interest in property, and also an exchange, a pledge, a hypothecation, and any transfer in trust or otherwise as security for the performance of an obligation, and also any issue of any security by a company; and the word "sell," as used in this act, includes every act by which such sale is made.

**"Agent."**

8. The word "agent" as used in this act means and includes every person or company employed or appointed by a company or a broker who shall, within this state, either as an employee or otherwise, for a compensation, sell, offer for sale, negotiate for the sale of, or take subscriptions for any security of any company of its own issue offered for sale by it.

**"Broker."**

9. The word "broker" as used in this act includes every person or company, other than an agent, who shall, in this state, engage, either wholly or in part, in the business of selling, offering for sale, negotiating for the sale of, or otherwise dealing in any security or securities issued by others, or of underwriting any issue of securities or of purchasing such securities with the purpose of reselling them or of offering them for sale to the public for a commission or at a profit; excepting therefrom the following:

(a) Any owner of any security who is not the issuer or an underwriter thereof, who sells or exchanges the same for his own account; *provided*, that such sale or exchange is not made in the course of repeated and successive transactions of like or similar character by him;

(b) Any trustee who, in such capacity, lawfully disposes of any property;

(c) Any company transacting a banking or insurance business in this state, selling a security for an owner thereof or a broker, other than an underwriter thereof, at a commission of not more than two per cent of the par or face value thereof; *provided*, such sale is not made in the course of repeated and successive transactions of like or similar character by such company;

(d) One, not the issuer, who disposes of securities to a broker or to a purchaser who, as a part of his regular business, purchases such securities;

(e) Any pledge holder selling, in good faith and not for the purpose of avoiding the provisions of this act, and in the ordinary course of business, a security pledged with him as security for a bona fide debt.

**"Actual fraud."**

10. The words "actual fraud," as used in this act, are defined in section one thousand five hundred seventy-two of the Civil Code.

**Permit to sell securities.**

SEC. 3. No company shall sell, except upon a sale for a delinquent assesment made in accordance with the provisions of Article II of Chapter II of Title I of Part IV of Division First of the Civil Code; or offer for sale, negotiate for the sale of, or take subscriptions for any security of its own issue until it shall have first applied for and secured from the commissioner a permit authorizing it so to do. Such application shall be in writing, shall be verified as provided in the Code of Civil Procedure for the verification of pleadings, and shall be filed in the office of the commissioner. In such application the applicant shall set forth the names and addresses of its officers, the location of its office, an itemized account of its financial condition, the amount and character of its assets and liabilities, a detailed state-

ment of the plan upon which it proposes to transact business, a copy of any security it proposes to issue, a copy of any contract it proposes to make concerning the same, a copy of any prospectus or advertisement, or other description of such securities, then prepared by or for it for distribution or publication, and such additional information concerning the company, its condition and affairs as the commissioner may require. If the applicant is a partnership or an unincorporated association or joint stock company, it shall file with its application a copy of its articles of partnership or association, and all other papers pertaining to its organization. If the applicant is a trustee, it shall file with its application a copy of all instruments by which the trust is created and in which it is accepted, acknowledged, or declared. If the applicant is a corporation, it shall file with its application a copy of all minutes of any proceedings of its directors or stockholders or members relating to or affecting the issue of such securities, and also a copy of its articles of incorporation and of its by-laws and of any amendments thereto. If the applicant is a corporation or association organized under the laws of any other state, territory, or government, it shall also file with its application a certificate, executed by the proper officer of such state, territory, or government not more than thirty days before the filing of such application, showing that such applicant is authorized to transact business in such state, territory, or government; and also, in such form as the commissioner may prescribe, its written instrument, irrevocably appointing the commissioner and his successor in office its true and lawful attorney upon whom all process in any action or proceeding against it may be served, with the same effect as if said corporation or association were organized or created under the laws of this state and had been lawfully served with process therein.

#### **Examination of application.**

SEC. 4. Upon the filing of such application, it shall be the duty of the commissioner to examine it and the other papers and documents filed therewith, and he may, if he deems it advisable, make or have made a detailed examination, audit, and investigation of the applicant and its affairs. If he finds that the proposed plan of business of the applicant is not unfair, unjust, or inequitable, that it intends to fairly and honestly transact its business, and that the securities that it proposes to issue and the methods to be used by it in issuing or disposing of them are not such as, in his opinion, will work a fraud upon the purchaser thereof, the commissioner shall issue to the applicant a permit authorizing it to issue and dispose of securities, as therein provided, in this state, in such amounts and for such considerations and upon such terms and conditions as the commissioner may in said permit provide. Otherwise, he shall deny the application and refuse such permit and notify the applicant in writing of his decision. Every permit shall recite in bold type that the issuance thereof is permissive only and does not constitute a recommendation or endorsement of the securities permitted to be issued. The commissioner may impose such conditions as he may deem necessary to the issue of such securities, and shall have the power to establish such rules and regulations as may be reasonable or necessary to insure the disposition of the proceeds of such securities in the manner and for the purposes provided in such permit, and may, from time to time for cause, amend, alter, or revoke any permit issued by him, or temporarily suspend the rights of the applicant under such permit.

#### **Certificate of agent or broker.**

SEC. 5. No person or company shall act as an agent or broker until such person or company shall have first applied for and secured from the commissioner a certificate, then in effect, authorizing such person or company so to do. Every such certificate shall expire on the thirty-first day of December next after its issuance, unless sooner revoked. To secure such certificate, the applicant shall make and file in the office of the commissioner an application therefor in writing, verified by or in behalf of the applicant. In such application, the applicant shall set forth, in addition to such other information as may be required by the commissioner:

1. The name and address of the applicant, and, if it be a corporation, association, or joint stock company, the name and address of each of its managing officers and agents, and, if it be a partnership, the name and address of each of the partners;

2. A succinct statement of facts showing that the applicant, and its managing officers and agents, if it be a corporation, or members, if it be a partnership, have a good business reputation;

3. If the applicant is a broker, the general plan and character of the business of the applicant,

**Fee.**

For filing such application, the applicant shall pay a fee as hereinafter provided. If the applicant is a corporation or association organized under the laws of any other state, territory, or government, it shall file with its application a copy of its articles of incorporation or association, together with a certificate executed by the proper officer of such state, territory, or government not more than thirty days before the filing of such application, showing that such applicant is authorized to transact business in such state, territory, or government, and also, in such form as the commissioner may prescribe, its written instrument, irrevocably appointing the commissioner and his successor in office its true and lawful attorney upon whom all process in any action or proceeding against it, arising out of or founded upon the actual fraud of such applicant in the sale of securities within this state, may be served, with the same effect as if said corporation or association were organized or created under the laws of this state and had been lawfully served with process therein.

**Certificate issued.**

SEC. 6. The commissioner shall examine such application, and shall make such further investigation of the applicant and its affairs as he shall deem advisable. If, from such examination, the commissioner shall be satisfied of the good business reputation of the applicant and of its officers or members, if any, he shall issue such certificate. Otherwise, he shall refuse the same and deny the application and notify the applicant of his decision. The commissioner may at any time revoke any broker's or agent's certificate issued by him if he shall find that the holder thereof is of bad business repute, or has violated any provision of this act, or has engaged, or is about to engage in any fraudulent transaction.

**Permit to sell security.**

SEC. 7. No person, partnership, association, or corporation, other than a broker holding a broker's certificate, then in effect, shall issue, circulate, or publish any advertisement, pamphlet, prospectus, or circular concerning any security, to be issued by any company, that such person, partnership, association, or corporation desires or proposes to sell, until the company proposing to issue such security shall have first secured from the commissioner a permit authorizing it to issue or sell such security; nor shall any company, broker, or agent, or any other person, issue, circulate, or publish any advertisement, pamphlet, prospectus, or circular concerning any security sold or offered for sale by it, unless the name of the company, broker, agent, or person issuing, circulating, or publishing the same shall be subscribed thereto, and a true copy thereof shall have been first filed in the office of the commissioner, or deposited in a United States post office, properly enclosed in a sealed envelope, addressed to the commissioner at Sacramento, California, with the postage duly prepaid thereon; nor shall any company, broker, or agent, or any other person, issue, circulate, or publish any such advertisement, pamphlet, prospectus, or circular after notice in writing given to it by the commissioner that, in his opinion, the same contains any statement that is false or misleading or otherwise likely to deceive a reader thereof.

**Report by company on sale of securities.**

SEC. 8. Every company authorized by the commissioner to sell securities shall thereafter, at such times as it may be required by the commissioner, make and file in the office of the commissioner a report, setting forth, in such form as commissioner may prescribe, the securities sold by it under the authority of any permit issued by him, the proceeds derived therefrom, the disposition of such proceeds, and such other information concerning its property, officers, or affairs, relating to or affecting the value of such securities, as the commissioner may require.

**Statement by broker on sale of securities.**

SEC. 9. Every broker shall, at such times as it may be required by the commissioner, make and file in the office of the commissioner a true and correct statement concerning any security sold or offered for sale by such broker, showing the name and location of the principal office of the issuer of such security; the names of its managing officers, if it is a corporation, or of its members, if it is a partnership; its assets, liabilities, and issued capital stock, at the close of its fiscal year then last ended, or at a later date; its gross income, expenses, and fixed charges for the year next preceding such date, or for such time as such issuer of such security has transacted business, if for less than one year, and the approximate price at which

such broker has sold or proposes to sell such security, together with such other information, of which the broker may have knowledge, as the commissioner may require.

**Papers open to public inspection.**

SEC. 10. All papers, documents, reports, and other instruments in writing filed with the commissioner under this act shall be open to public inspection; *provided*, that if, in his judgment, the public welfare or the welfare of any company, broker, or agent demands that any portion of such information be not made public, he may, in his discretion, withhold such information from public inspection for such time as in his judgment is necessary. The commissioner may at any time give, issue, or make public any information concerning any company or any contracts, stocks, bonds, or other securities sold or offered for sale within this state, if in his judgment the giving, issuing, or publishing of the same will be of public interest or advantage or will tend to prevent the fraudulent sale of such securities.

**Review of orders, etc., of commissioner.**

SEC. 11. Every order, decision, permit or other official act of the commissioner shall be subject to review, in accordance with the provisions of Chapter I of Title I of Part III of the Code of Civil Procedure; and any party aggrieved by any such order, decision, or permit of the commissioner may appeal therefrom to the superior court of the county of Sacramento, by serving upon the commissioner a notice of such appeal, a demand in writing for a certified transcript of all the papers on file in his office affecting or relating to such decision, and the payment of the fee therefor, within sixty days after the making of any such order, permit, or decision. Thereupon, the commissioner shall, within ten days, make and certify such transcript, and the appellant shall, within five days thereafter, file the same and the notice of appeal with the clerk of said court. Upon the hearing of such appeal, the burden of proof shall lie upon the appellant, and the court shall receive and consider any pertinent evidence, whether oral or documentary, concerning the action of the commissioner from which the appeal is taken, but shall be limited to a consideration and determination of the question whether there has been an abuse of discretion on the part of the commissioner in making such order, decision, or permit.

**Securities void.**

SEC. 12. Every security issued by any company, without a permit of the commissioner authorizing the same then in effect, shall be void, and every security issued by any company, with the authorization of the commissioner but not conforming in its provisions to the provisions, if any, which it is required by the permit of the commissioner to contain, shall be void.

**Penalty for company violating act.**

SEC. 13. Every company which shall directly or indirectly issue or cause to be issued any security contrary to the provisions of this act, or of the constitution of this state, or in nonconformity with a permit of the commissioner authorizing the same, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes, if any, specified in such permit, or to any purpose specified in such permit in excess of any amount limited in such permit to be used for such purpose, shall be guilty of a public offense and shall be punishable by a fine not exceeding ten thousand dollars.

**Penalty for officers, etc.**

SEC. 14. Every officer, agent, or employee of any company, and every other person, who knowingly authorizes, directs, or aids in the issue or sale of, or issues or executes, or sells, or causes or assists in causing to be issued, executed, or sold, any security, in nonconformity with a permit of the commissioner then in effect authorizing such issue, or contrary to the provisions of this act, or of the constitution of this state, or who, in any application to the commissioner, or in any proceeding before him, or in any examination, audit, or investigation made by him or his authority, knowingly makes any false statement or representation, or who, with knowledge of its falsity, files or causes to be filed in the office of the commissioner any false statement or representation concerning such company or the property which it then holds or proposes to acquire, or concerning its officers or its financial condition or other affairs, or concerning its proposed plan of business, or who, with knowledge of the falsity of any such statement or representation, issues, executes, or sells, or causes to be issued, executed, or sold, any security, without first informing the commissioner of the falsity of such statement in writing, or who, directly or indirectly,



knowingly applies, or causes or assists in causing to be applied, the proceeds, or any part thereof, from the sale of any security to any purpose contrary to the provisions of the permit authorizing the issue of such security, or to any purpose specified in such permit in excess of any amount limited in such permit to be used for such purpose, or who, with knowledge that any security has been issued or executed in violation of any of the provisions of this act, sells or offers the same for sale, or who, with knowledge that any advertisement, pamphlet, prospectus, or circular concerning any security contains any statement that is false or misleading, or otherwise likely to deceive a reader thereof, issues, circulates, or publishes the same, or shall cause the same to be issued, circulated, or published, or who, in any other respect, wilfully violates or fails to comply with any of the provisions of this act, or who, in any other respect, wilfully violates or fails, or neglects to obey, observe, or comply with any order, permit, decision, demand, or requirement, or any part or provision thereof, of the commissioner under the provisions of this act, is guilty of a public offense and shall be punished by imprisonment in the state prison not exceeding five years, or in a county jail not exceeding two years, or by a fine not exceeding five thousand dollars, or by both such fine and imprisonment.

#### **State corporation department created.**

SEC. 15. There is hereby created a state corporation department. The chief officer of such department shall be the commissioner of corporations. He shall be appointed by the governor and hold office at the pleasure of the governor. He shall receive an annual salary of five thousand dollars, to be paid monthly out of the state treasury upon a warrant of the controller. He shall within fifteen days from the time of notice of his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state and execute to the people of the state a bond in the penal sum of ten thousand dollars with corporate security or two or more sureties, to be approved by the governor of the state, for the faithful discharge of the duties of his office.

#### **Clerks and deputies. Duty of attorney general.**

SEC. 16. The commissioner shall employ such clerks and deputies as he may need to discharge in proper manner the duties imposed upon him by law. The attorney general shall render to the commissioner opinions upon all questions of law, relating to the construction or interpretation of this act or arising in the administration thereof, that may be submitted to him by the commissioner, and shall act as the attorney for the commissioner in all actions and proceedings brought by or against him under or pursuant to any of the provisions of this act. Neither the commissioner nor any of his clerks or deputies shall be interested in any company which shall have applied for or secured a permit to sell securities, or in any broker, or agent as a director, stockholder, officer, member, agent, or employee. Such clerks and deputies shall perform such duties as the commissioner shall assign to them. He shall fix the compensation of such clerks and deputies, which compensation shall be paid monthly, on the certificate of the commissioner and on the warrant of the controller, out of the state treasury. Each deputy shall, within fifteen days after his appointment, take and subscribe to the constitutional oath of office, and file the same in the office of the secretary of state.

#### **Powers of commissioner.**

SEC. 17. The commissioner shall at all times have the power to administer oaths and to make an examination or investigation of the books, records, accounts, and other papers, and of the business of any company, broker, or agent permitted or authorized by him to sell securities, to make dividends, to create debts, to divide, withdraw, or pay to the stockholders, or any of them, any part of its capital stock, or to increase or reduce its capital stock. In any examination, audit, or investigation made or hearing conducted by him, he shall have the power to take the testimony of any witness and to issue subpoenas requiring the attendance upon such examination, audit, investigation, or hearing in any part of the state of witnesses and the production of books, documents, and other things under their control, and in any such case to take or cause to be taken the deposition of any witness residing within or without this state. All of the provisions of Chapter II of Title III of Part IV of the Code of Civil Procedure, relating to the means of production of evidence out of court, shall be applicable to any examination, investigation, or hearing under this act. No person shall be excused from testifying or from producing any book, document, or other thing under his control upon any such examination, audit, investigation, or hearing upon the ground that his testimony, or the

book, document, or other thing required of him, may tend to incriminate him, or may have a tendency to subject him to punishment for a felony, or to a penalty or forfeiture; but no person shall be prosecuted, punished, or subjected to any penalty or forfeiture for or on account of any act, transaction, matter, or thing concerning which he shall have been so compelled to testify under oath, or to produce documentary or other evidence; *provided*, that no person so testifying shall be exempt from prosecution or punishment for perjury if committed by him in his testimony. The authority to make or conduct any such examination, audit, investigation, or hearing, including the authority to administer oaths, and to subpoena witnesses and take their testimony, may be delegated by the commissioner to any deputy or examiner appointed by him for that purpose. Such appointment shall be made by an instrument in writing, signed by the commissioner under his official seal, and upon such examination, audit, investigation, or hearing, the same shall be produced by such deputy or examiner at any time upon demand therefor.

#### Service of process.

SEC. 18. In any action or proceeding commenced or prosecuted in this state against any corporation or association which shall have appointed the commissioner its attorney, as provided in section three of this act, and in any action or proceeding commenced or prosecuted in this state, arising out of or founded upon the actual fraud of any corporation or association which shall have appointed the commissioner its attorney, as provided in section five of this act, service of process may be made upon the commission. In any such case, the commissioner shall forthwith forward by mail, postage prepaid, to the person designated by such corporation or association by an instrument in writing duly executed by it and filed with the commissioner, at the address stated in such instrument, or, if no such designation has been made, to the secretary of such corporation or association at its last known post-office address, a copy of such process; whereupon, and upon the payment of the fee herein provided for, service of such process upon such company shall be deemed to be complete and to be personal service upon such corporation or association, with the same effect as if said corporation or association were organized or incorporated under the laws of this state and had been lawfully served with process therein. The certificate of the commissioner, under his official seal, of such service, shall be competent and sufficient proof thereof.

#### Officers.

SEC. 19. The commissioner shall have his principal office in the city of Sacramento, and may establish branch offices in the city and county of San Francisco and in the city of Los Angeles, and he shall from time to time obtain the necessary furniture, stationery, fuel, light, and other proper conveniences for the transaction of business of the department; the expenses of which shall be paid out of the state treasury on the certificate of the commissioner and the warrant of the controller.

#### Fees.

SEC. 20. The commissioner shall charge and collect the following fees:

1. For filing any application for a permit to issue securities, ten dollars, plus—

One twentieth of one per cent of the amount of any excess of the aggregate value of the securities sought to be issued over twenty thousand dollars and not exceeding fifty thousand dollars;

One twenty-fifth of one per cent of such amount in excess of fifty thousand dollars and not exceeding one hundred thousand dollars;

One fiftieth of one per cent of such amount in excess of one hundred thousand dollars and not exceeding five hundred thousand dollars; and

One one-hundredth of one per cent of such amount in excess of five hundred thousand dollars.

The value of such securities shall be deemed to be their par or face value, if they have a par or face value; otherwise, the price at which the company proposes to sell or issue the same, or the value, as alleged in the application, of the consideration (if other than money) to be received in exchange therefor.

2. For filing any application for a permit or other authority to make dividends, create debts, or to divide, withdraw, increase, reduce or pay to the stockholders, or any of them, the capital stock, or any part thereof, the same amount that would otherwise be chargeable or collectible if such application were for a permit to issue securities; *provided*, that in any such case the value shall be determined by the amount of dividends made, debts created, or capital stock divided, withdrawn, increased, reduced, or paid.

3. For filing any application for a broker's certificate, five dollars.  
 4. For filing any application for an agent's certificate, one dollar.  
 5. For any examination, audit, or investigation, ten dollars per day or fraction thereof, if made by the commissioner, or the actual amount of the salary or other compensation, not exceeding ten dollars per day, paid to any deputy or other employee of the commissioner, if made by a deputy or other employee, for each day or fraction thereof that such commissioner, deputy, or other employee shall necessarily be absent from his office for the purpose of making such examination, audit, or investigation, plus the actual amount of traveling expenses reasonably incurred in the performance of such work.

6. For copies of papers and records not required to be certified or otherwise authenticated by the commissioner, ten cents for each folio.

7. For certified copies of official documents, orders, and other papers filed in his office; for making and mailing copies of process served upon him under the provisions of section eighteen of this act, and for transcripts on appeal, fifteen cents for each folio and one dollar for each certificate under seal affixed thereto.

8. For certificate of service and mailing of process served upon the commissioner under the provisions of section eighteen of this act, two dollars.

No fees shall be charged or collected for copies of papers, records, or official documents furnished to public officers for use in their official capacity or for the reports of the commissioner in the ordinary course of distribution; but the commissioner may fix a reasonable charge for publications issued under his authority.

#### **"Corporation commission fund."**

All fees charged and collected under this section shall be paid at least once each week, accompanied by a detailed statement thereof, into the treasury of the state to the credit of a fund to be known as the "corporation commission fund," which fund is hereby created.

#### **Appropriated for use of commissioner.**

SEC. 21. All moneys which shall be paid into the state treasury and credited to the "corporation commission fund" are hereby appropriated to be used by the commissioner in carrying out the provisions of this act; and the controller shall draw his warrant on said fund from time to time in favor of the commissioner for the amounts expended under his direction, and the treasurer shall pay the same. The commissioner may, with the consent of the board of control, withdraw from said fund a sum not exceeding one thousand dollars, to be used as a revolving fund where cash advances are necessary. The commissioner must account for the sum withdrawn for said revolving fund at any time upon demand of the board of control.

#### **Seal.**

SEC. 22. The commissioner shall adopt a seal bearing the following inscription: "Commissioner of Corporations State of California." The seal shall be affixed to all writs, orders, permits, and certificates issued by him, and to such other instruments as he shall direct. All courts shall take judicial notice of said seal.

#### **Copies of orders, etc.**

SEC. 23. The commissioner may execute in duplicate any order, finding, or permit issued by him, and each of such parts shall be deemed to be an original. An original of every such order, finding, or permit shall be retained and preserved by him in his office. Copies of all documents, orders, and permits made, executed, or issued by the commissioner, and of all papers filed in his office, when certified by the commissioner under his official seal, shall be received in evidence in all cases in like manner and with the same effect as the originals. Any order or permit issued by the commissioner, or a copy thereof certified by the commissioner under his official seal, to be a true copy of the original order or permit, may be recorded in the office of the county recorder of the county in which is located the principal place of business of the company affected thereby or in which is situated any property of such company, and such record shall impart notice of such order or permit, and of all its provisions, to all persons. A certificate under the seal of the commissioner that any such order or permit has not been amended, altered, revoked, or suspended may also be recorded in the same offices and with like effect.

#### **Official reports prima facie evidence.**

SEC. 24. Every official report made by the commissioner, and every report, duly verified, made to him by any deputy, clerk, or other person employed by him, of any

examination, audit, or investigation made by him or under his direction, and copies of such reports, certified by the commissioner, shall be prima facie evidence of the facts therein stated for all purposes in any action or proceeding wherein any company, broker, agent, or the commissioner is a party.

**Subscription for shares prior to incorporation.**

SEC. 25. Neither this act nor any provision hereof shall be deemed to prohibit subscriptions for shares of a corporation made prior to the incorporation thereof and set forth in its articles of incorporation; but such subscriptions shall be deemed to have been made and accepted upon the condition that such corporation, when incorporated, shall with reasonable diligence apply for and secure from the commissioner a permit authorizing the issue of the shares so subscribed for, in accordance with such subscriptions. The directors or trustees named in the articles of incorporation may, prior to the issue of any shares, organize by the election of a president, who must be one of their number, a secretary and a treasurer; and such directors, or a majority of them, or such president and secretary may, in the name of and in behalf of the incorporation, present an application to the commissioner as herein provided.

**Acts continued.**

SEC. 26. This act, in so far as it does not add to, take from, or alter an act entitled "An act to define investment companies, investment brokers, and agents; to provide for the regulation, supervision and licensing thereof; to provide penalties for the violation thereof; to create the office of commissioner of corporations, and making an appropriation therefor," approved May 28, 1913, as amended by an act entitled "An act to amend section three of an act entitled 'An act to define investment companies, investment brokers, and agents; to provide for the regulation, supervision and licensing thereof; to provide penalties for the violation thereof; to create the office of commissioner of corporations, and making an appropriation therefor,' approved May 28, 1913," approved June 3, 1915, shall be construed as a continuation thereof.

**Decisions, etc., continued in force.**

All decisions, orders, rules, findings, certificates, or permits heretofore made or issued, and acts done by the commissioner, shall continue in force and have the same effect as if they had been lawfully made, issued, or done under the provisions of this act.

**Appeals not affected.**

This act shall not affect any appeal pending from any decision of the commissioner, or any proceeding to which he, in his official capacity, is a party; but the same may be prosecuted or defended with the same effect as if this act had not been passed. Any examination, audit, or investigation undertaken, commenced, or prosecuted prior to the taking effect of this act may be conducted to a final determination in the same manner and with the same effect as if it had been undertaken, commenced, or prosecuted under the provisions of this act, and in the manner herein provided. No action or proceeding, either civil or criminal, or cause of action arising under any law of this state shall abate by reason of the passage of this act, but actions or proceedings may be commenced and prosecuted upon such causes in the same manner and with the same effect as if this act had not been passed.

**Foreign and interstate commerce.**

SEC. 27. Neither this act nor any provision hereof shall apply to or be construed as a regulation of commerce with foreign nations or among the several states, except in so far as the same may be permitted under the provisions of the constitution and the acts of the congress of the United States.

**Constitutionality.**

SEC. 28. If any section, subsection, sentence, clause, or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

SEC. 29. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

## WATER COMMISSION ACT.

## CHAPTER 586.

An act to regulate the use of water which is subject to such control by the state of California, and in that behalf creating a state water commission; specifying and providing for the appointment of the members of said commission; fixing the terms of office and compensation of the members of said commission; fixing the powers, duties and authority of said commission and its members; providing for the filling of vacancies in the membership of said commission; providing for the removal from office of the appointed members of said commission; providing for the cooperation of courts with said commission; providing that certain courts shall take judicial notice of certain acts of the state water commission; specifying the duties of all persons summoned as witnesses before said commission or any of its members; appropriating money for carrying out the provisions of this act; providing for the payment of the indebtedness and expenses of said commission, its members and employees; declaring what water is unappropriated; providing for the utilization of water and the works necessary to such utilization to the full capacity of streams or of such portion or portions of such capacity as the public good may require; declaring what water may be appropriated; declaring that the nonapplication for ten consecutive years of any portion of the waters of any stream to lands riparian to such stream shall be conclusive presumption that the use of such nonapplied water is not needed on said riparian lands for a useful or beneficial purpose; declaring that such nonapplied water shall be deemed to be in the use of the state and subject to appropriation; declaring the duties of those who desire to appropriate water; declaring the periods for which water may be appropriated and the conditions under which water may be appropriated; providing for the payment of fees and charges by the applicants for permission to appropriate water and by the appropriators of water; providing for the ascertainment and adjudication of water rights; providing for the bringing of actions by certain persons, or, upon the direction of the state water commission, by the attorney general, for the quieting of title to water rights; specifying certain duties of the claimants, possessors or users of water or water rights; declaring water rights forfeited under certain conditions; regulating the appropriation of water; excepting cities, cities and counties, municipal water districts, irrigation districts and lighting districts from certain provisions of this act; defining certain words and terms used in this act; repealing all acts or parts of acts in conflict with this act; declaring how this act shall be known; making legislative declaration concerning those parts of this act which may not be declared unconstitutional.

[Approved June 16, 1913. Amended 1915. Amended 1917.]

*The people of the state of California do enact as follows:*

SECTION 1. For the purpose of carrying out the provisions of this act a state water commission consisting of five persons is hereby created and established. Two members of said commission shall be, ex officio, the governor of the state and the state engineer, respectively. Three members of said commission shall be appointed by the governor for the term of four years; *provided, however*, that of the members first appointed one shall be appointed to hold office until the first day in January, nineteen hundred and fourteen, one until the first day in January, nineteen hundred and fifteen, and one until the first day in January, nineteen hundred and sixteen. Such appointive commissioners shall be men of practical knowledge or experience in the application and use of waters for irrigation, mining and municipal purposes, and shall be so appointed that at least one thereof shall have had practical knowledge and experience in the use of water for agricultural purposes, and one thereof shall have had practical knowledge and experience in the use of water for mining purposes, and one thereof shall have had practical knowledge and experience in the use of water for municipal purposes. The commissioners shall elect one of their number president of the commission. The appointed members of said commission shall each receive as compensation for his services the sum of five thousand dollars per annum. No commissioner who is directly or indirectly interested in any matter before the commission shall sit with the commission during the hearing of such matter; nor shall he be detailed by the commission to investigate or report on any such matter; nor shall he take part in any determination of any such matter. But the governor shall have the power and authority, upon request of the commission, to appoint *pro tempore* some disinterested person to sit and act in the place and stead of such interested commissioner. Such *pro tempore* commissioner shall have compensation for the time of service equal to the compensation of a commissioner

during such service and shall have the power and authority of the same, only in the matter for the investigation and determination of which he shall have been appointed and his connection with the commission shall cease and determine upon the completion of the investigation and determination for which he was appointed. But the commissioner in whose place and stead he sits shall have power, compensation and authority in all other cases.

SEC. 2. Whenever a vacancy in the state water commission shall occur, the governor shall forthwith appoint a qualified person to fill the same for the unexpired term. The legislature, by a two-thirds vote of all members elected to each house, or the governor, may remove any one or more of the appointed commissioners from office. The commission shall have a seal bearing the following inscription: State water commission of California. The seal shall be affixed to all authentications of copies of records and to such other instruments as the commission may direct. All courts shall take judicial notice of said seal.

SEC. 3. A majority of the appointed commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. The act of a majority of the commissioners present, when in session as a board, shall be deemed to be the act of the commission; but any investigations, inquiry or hearing which the commission has power to undertake or hold may be undertaken or held by or before any commissioners or commissioner designated for the purpose by the commission; and every finding, order, ascertainment or decision made by the commissioners or the commissioner so designated pursuant to such investigation, inquiry or hearing, when approved by the commission and ordered, filed in its office, shall be and be deemed to be the finding, order, ascertainment or decision of the commission.

SEC. 4. (a) Each commissioner shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, maps, accounts, documents and testimony in any inquiry, investigation, hearing, ascertainment or proceeding ordered or undertaken by the commission in any part of the state. Each witness who shall appear by order of the commission or any commissioners or a commissioner shall receive for his attendance the same fees and mileage allowed by law to witnesses in civil cases, which amount shall be paid by the party at whose request such witness is subpoenaed. When any witness who has not been required to attend at the request of any party shall be subpoenaed by the commission his fees and mileage shall be paid from the funds appropriated for the use of the commission in the same manner as other expenses of the commission are paid. Any witness subpoenaed, except one whose fees and mileage may be paid from the funds of the commission, may, at the time of service, demand the fee to which he is entitled for travel to and from the place at which he is required to appear and one day's attendance. If such witness demands such fees at the time of service, and they are not at that time paid or tendered, he shall not be required to attend before the commission or commissioners as directed in the subpoena. All fees and mileage to which any witness is entitled under the provisions of this section may be collected by action therefor instituted by the person to whom such fees are payable. But no witness shall be compelled to attend as a witness before the water commission or any water commissioner or water commissioners out of the county in which he resides, unless the distance be less than thirty miles from his place of residence to the place of hearing.

(b) The superior court of the county or city and county in which any inquiry, investigation, hearing or proceedings may be held by the commission or any commissioner or commissioners shall have the power to compel the attendance of witnesses and the production of papers, maps, books, accounts, documents and testimony as required by any subpoena issued by the commission or any commissioner or commissioners. The commission, commissioners or commissioner before whom

the testimony is to be given or produced may, in case of the refusal of any witness to attend or testify or produce any papers, maps, books, accounts or documents required by such subpœna, report to the superior court in and for the county or city and county in which the proceeding is pending by petition, setting forth that due notice has been given of the time and place of attendance of said witness, or for the production of said papers, maps, books, accounts or documents and that the witness has been summoned in the manner prescribed in this act, and that the witness has failed and refused to attend or produce the papers, maps, books, accounts or documents required by the subpœna before the commission, commissioners, or commissioner in the cause or proceeding named in the notice and subpœna, or has refused to answer questions propounded to him in the course of such cause or proceeding, and ask an order of said court, compelling the witness to attend, testify, and produce said papers, maps, books, accounts or documents before the commission, or commissioners, or commissioner. The court, upon the petition of the commission or commissioners or commissioner, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten days from the date of the order, and then and there show cause, if any he have, why he refused to obey said subpœna, or refused to answer questions propounded to him by said commission, or any commissioners or any commissioner, or neglected, failed or refused to produce before the said commission, or any commissioners of any commissioner the books, papers, maps, accounts or documents called for in said subpœna. A copy of said order and the petition therefor shall be served upon said witness. If it shall appear to the court that said subpœna was regularly issued by the commission or any commissioners or a commissioner, the court shall thereupon enter an order that said witness appear before the commission or commissioners or commissioner at the time and place fixed in said order, and testify or produce the required papers, maps, books, accounts or documents, or both testify and produce; and upon failure to obey said order said witness shall be dealt with as for contempt of court.

(c) The state water commission or any commissioners or commissioner, or any party to a proceeding before the commission or any commissioners or any commissioner, may in any investigation or hearing before the commission or any commissioners or any commissioner cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this state.

(d) No person shall be excused from testifying or from producing any book, map, document, paper or account in any investigation or inquiry by or hearing before the commission or any commissioners or commissioner upon the ground that the testimony or evidence, book, map, document, paper or account required of him may tend to incriminate him or subject him to penalty or forfeiture. But no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any act, transaction, matter or thing material to the matter under investigation by said commission, or any commissioners, or any commissioner concerning which he shall have been compelled to testify or to produce documentary evidence; *provided*, that no person so testifying or producing shall be exempt from prosecution and punishment for any perjury committed by him in his testimony.

SEC. 5. A full and accurate record of business of acts performed or of testimony taken by the commission or any member or members thereof in pursuance of the provisions of this act shall be kept and be placed on file in the office of said water commission.

SEC. 6. The state water commission shall take, charge and collect the following fees: for copies and records not required to be certified or otherwise authenticated by the commission, ten cents for each folio; for certified copies of official documents and orders filed in its office, fifteen cents for each folio, and one dollar for every certificate under seal affixed thereto; for certified copies of evidence and proceedings before the commission, fifteen cents for each folio. The commission may fix reasonable charges for publications issued under its authority. All

fees charged and collected under this section shall be paid, at least once each week, accompanied by a detailed statement thereof, into the treasury of the state.

SEC. 7. For the purpose of carrying out the provisions of this act the state water commission is authorized to pass such necessary rules and regulations as it may from time to time deem advisable, and to appoint and remove at its pleasure a secretary who shall have charge of its books and records and perform such other duties as from time to time may be prescribed and whose salary shall be fixed by the water commission; and the state water commission may also employ such expert, technical and clerical assistance, and upon such terms, as it may deem proper.

SEC. 8. For the purpose of carrying out the provisions of this act the sum of fifty thousand dollars is hereby appropriated for the fiscal years 1913-1914 and 1914-1915 out of any money in the state treasury not otherwise appropriated, and the state controller is hereby authorized and directed to draw warrants upon such sum from time to time upon the requisition of the state water commission approved by the state board of control, and the state treasurer is hereby authorized and directed to pay such warrants.

SEC. 9. All indebtedness incurred for salaries, and all necessary costs in traveling and other expenses of said commission, and each of its members and persons employed by it, while actually engaged in the business of said commission, shall be paid by the state out of the funds hereby appropriated, upon the sworn statement of the person or persons incurring such indebtedness, and upon the requisition of the state water commission, approved by the state board of control, and the state controller is hereby authorized to draw warrants upon the state treasurer for said indebtedness, salaries, costs and expenses, as provided by law for the payment of similar costs and expenses and the drawing of similar warrants.

SEC. 10. The state water commission is hereby authorized and empowered to investigate for the purpose of this act all streams, stream systems, portions of stream systems, lakes, or other bodies of water, and to take testimony in regard to the rights to water or the use of water thereon or therein, and to ascertain whether or not such water, or any portion thereof, or the use of said water or any portion thereof, heretofore filed upon or attempted to be appropriated by any person, firm, association, or corporation, is appropriated under the laws of this state.

SEC. 11. All water or the use of water which has never been appropriated, or which has been heretofore appropriated and which has not been in process, from the date of the initial act of appropriation, of being put, with due diligence in proportion to the magnitude of the work necessary properly to utilize for the purpose of such appropriation such water or the use of water, or which has not been put, or which has ceased to be put to some useful or beneficial purpose, or which may hereafter be appropriated and cease to be put, to the useful or beneficial purpose for which it was appropriated, or which in the future may be appropriated and not be, in the process of being put, from the date of the initial act of appropriation, to the useful or beneficial purpose for which it was appropriated, with due diligence in proportion to the magnitude of the work necessary properly to utilize for the purpose of such appropriation such water or the use of water, is hereby declared to be unappropriated. And all waters flowing in any river, stream, canyon, ravine or other natural channel, excepting so far as such waters have been or are being applied to useful and beneficial purpose upon, or in so far as such waters are or may be reasonably needed for useful and beneficial purposes upon lands riparian thereto, or otherwise appropriated, is and are hereby declared to be public waters of the state of California, and subject to appropriation in accordance with the provisions of this act. If any portion of the waters of any stream shall not be put to a useful or beneficial purpose to or upon lands riparian to such stream for any continuous period of ten consecutive years after the passage of this act, such nonapplication shall be deemed to be conclusive presumption that the use of such portions of the waters of such stream is not needed upon said riparian lands for any useful or beneficial purpose, and such portion of the waters of any



stream so nonapplied, unless otherwise appropriated for a useful and beneficial purpose is hereby declared to be in the use of the state and subject to appropriation in accordance with the provisions of this act. In any case where a reservoir or reservoirs have been or shall hereafter under the provisions of this act be constructed or surveyed, laid out and proposed to be constructed for the storage of water for a system, which water is to be used at one or more points under appropriations of water heretofore or hereafter made, which appropriations and rights thereunder are now, or shall hereafter be held and owned by the person or corporation owning such reservoir site or sites and constructing such reservoir or reservoirs, such reservoir or reservoirs and appropriations and rights shall, in the discretion of the state water commission, constitute a single enterprise and unit, and work of constructing such reservoir or reservoirs, or any of them, or work on any one of such appropriations shall, in the discretion of said commission, be sufficient to maintain and preserve all such applications for appropriations and rights thereunder.

**Sec. 12.** The state water commission shall have authority to, and may, for good cause shown, upon the application of any appropriator or user of water under an appropriation made and maintained according to law prior to the passage of this act, prescribe the time within which the full amount of the water appropriated shall be applied to a useful or beneficial purpose; *provided*, that said appropriator or user shall have proceeded, with due diligence in proportion to the magnitude of the project, to carry on the work necessary to put the water to a beneficial use; and in determining said time said commission shall grant a reasonable time after the construction of the works or canal or ditch or conduits or storage system used for the diversion, conveyance or storage or water; and in doing so said commission shall also take into consideration the cost of the application of such water to the useful or beneficial purpose, the good faith of the appropriator, the market for water or power to be supplied, the present demand therefor, and the income or use that may be required to provide fair and reasonable returns upon the investment and any other facts or matters pertinent to the inquiry. Upon prescribing such time the state water commission shall issue a certificate showing its determination of the matter. For good cause shown, the state water commission may extend the time by granting further certificates. And, for the time so prescribed or extended, the said appropriator or user shall be deemed to be putting said water to a beneficial use.

And if at any time it shall appear to the state water commission, after a hearing of the parties interested and an investigation, that the full capacity of the works built or constructed, or being built or constructed, under an appropriation of water or the use thereof made under the provisions of this act has not developed or can not develop the full capacity of the stream at the point where said works have been or are being built or constructed, and that the holder of the said appropriation will not or can not, within a period deemed to be reasonable by the commission, develop the said stream at said point to such a capacity as the commission deems to be required by the public good, then and in that case the said commission, in its discretion, may permit the joint occupancy and use, with the holder of the appropriation, to the extent necessary to develop the stream to its full capacity or to such portion of said capacity as may appear to the state water commission to be advisable, by any and all persons, firms, associations, or corporations applying therefor, of any dam, tunnel, diversion works, ditch, or other works or constructions already built or constructed or in process of being built or constructed under this act; *provided*, that said commission shall take into consideration the reasonable cost of the original and new work, the good faith of the applicant, the market for water or power to be supplied by the original and the new work, and the income or use that may be required to provide fair and reasonable returns upon such cost; *provided, further*, that the applicant or applicants shall be required to pay to the party or parties owning said dam, tunnel, diversion works, ditch, or other works or constructions a pro rata portion of the total cost of the old and the new works, said pro rata portion to be based upon the proportion of the water

used by the original and the subsequent users of said dam, tunnel, diversion works, ditch, or other works or constructions, if the water is used or to be used for irrigation or domestic purposes; or, if the water is used or to be used for the generation of electricity or electrical or other power, the said pro rata portion shall be based upon the relative amount of electricity or electrical or other power capable of being developed by the original and the new works; or, if a portion of the water utilized under a joint occupancy of any dam, tunnel, diversion works, ditch or other works of construction, shall be used for the purpose of irrigation and another portion of said water shall be used for the generation of electricity or electrical or other power, then and in that case the applicant or applicants for joint occupancy shall be required to pay the party or parties owning said dam, tunnel, diversion works, ditch, or other works or constructions a pro rata portion of the total cost of the old and new works, said pro rata portion to be based upon the proportion of the relative amount of water used by each joint occupant and the income derived by each said joint occupant from said joint occupancy; or, if any of the waters used under such joint occupancy shall be utilized for purposes other than those specified above, then and in that case the applicant or applicants for such joint occupancy shall be required to pay to the party or parties owning said dam, tunnel, diversion works, ditch, or other works or constructions, such a pro rata portion of the total cost of the old and new works as shall appear to the state water commission to be just and equitable. Said applicant or applicants shall also be required to pay a proper pro rata share, based as above, of the cost of maintaining said dam, tunnel, diversion works, ditch or other works or constructions, on and after beginning the occupancy and use thereof. Furthermore, the state water commission if it appears to the said commission that the full capacity of the works built or constructed, or being built or constructed, under an appropriation of water or the use thereof under this act, will not develop the full capacity of the stream at that point, and it appears to the commission that the public good requires it, and the commission specifically so finds after investigation and hearing of the parties interested, may permit any person, firm, association or corporation to repair, improve, add to, supplement, or enlarge, at his or its proper cost, charge and expense, any dam, tunnel, diversion works, ditch, or other works or constructions already built or constructed or in process of being built or constructed under the provisions of this act, and to use the same jointly with the owners thereof; *provided*, that the said repairing, improving, adding to, supplementing, or enlarging shall not materially interfere with the proper use thereof by the owner of said dam, tunnel, diversion works, ditch, or other works or constructions or shall not materially injure said dam, tunnel, diversion works, ditch or other works or constructions. And the state water commission shall determine the pro rata and other costs provided for in this section.

SEC. 13. All rights granted or declared by this act shall be ascertained, adjudicated and determined in the manner and by the tribunals as provided in this act.

SEC. 14. This act shall not be held to bestow, except as expressly provided in this act, upon any person, firm, association or corporation, any right where no such right existed prior to the time this act takes effect.

SEC. 15. The state water commission shall allow, under the provisions of this act, the appropriation for beneficial purposes of unappropriated water unless, in the opinion of the said commission, such appropriation would be detrimental to the public welfare. (*Amended 1915.*)

SEC. 15a. The state water commission shall allow the appropriation of water in this state for beneficial use in another state only when, under the laws of the latter, water may be lawfully diverted therein for beneficial use in the state of California. Upon any stream flowing across the state boundary a right of appropriation having the point of diversion and the place of use in another state and recognized by the laws of that state, shall have the same force and effect as if the point of diversion and the place of use were in this state; *provided*, that the laws of that state give like force and effect to similar rights acquired in this state. (*Amended 1917.*)

SEC. 16. Every application for a permit to appropriate water shall set forth the name and post-office address of the applicant, the source of water supply, the nature and amount of the proposed use, the location and description of the proposed headworks, ditch, canal and other works; the proposed place of diversion and the place where it is intended to use the water; the time within which it is proposed to begin construction, the time required for completion of the construction, and the time for the complete application of the water to the proposed use. If for agricultural purposes, the application shall, besides the above general requirements, give the legal subdivisions of the land and the acreage to be irrigated, as near as may be; if for power purposes, it shall give, besides the general requirements prescribed above, the nature of the works by means of which the power is to be developed, the head and amount of water to be utilized, and the use to which the power is to be applied; if for storage in a reservoir, it shall give, in addition to the general requirements prescribed above, the height of dam, the capacity of reservoir, and the use to be made of the impounded waters; if for municipal water supply, it shall give, besides the general requirements specified above, the present population to be served, and, as near as may be, the future requirements of the city; if for mining purposes, it shall give, in addition to the general requirements prescribed above, the nature and location of the mines to be served and the methods of supplying and utilizing the water. All applications shall be accompanied by as many copies of such maps, drawings, and other data as may be prescribed or required by the state water commission, and such maps, drawings, and other data shall be considered as part of the application. If any permittee or licensee, or the heirs, successors, or assigns of any permittee or licensee, desire to change the point of diversion from the point of diversion specified in the original application, or after the granting of any permit or license, such change or changes may be made only upon the permission of the state water commission; *provided*, that, before granting such permission, such applicant must establish, to the satisfaction of the state water commission, and such commission must so find, that such change in the place of diversion will not operate to the injury of any other appropriator or legal user of such waters before permitting such change in the place of the diversion. Upon receipt of application for permission to make such change in the place of diversion, the commission shall, by order, fix a time within which any person interested may appear in opposition to such application, and such application shall, if the commission so require, cause to be published at least once a week for four consecutive weeks, in a newspaper or newspapers of general circulation in the county in which is situated both the old and new points of diversion, a copy of said order. Proof of such publication shall be by affidavit of the publisher of such newspaper. Should any objection be made to the change in point of diversion so applied for, the state water commission shall fix a time for the hearing of said application and of the objections thereto, which time shall be not less than thirty days nor more than sixty days after the period of said publication, and upon such hearing the said commission shall grant or refuse, as the facts shall warrant, such permission to change place of diversion.

SEC. 17. Any person, firm, association or corporation may apply for and secure from the state water commission, in conformity with this act and in conformity with reasonable rules and regulations adopted from time to time by the state water commission, a permit for any unappropriated water or for water which having been appropriated or used flows back into a stream, lake or other body of water within this state. And any application so made shall give to the applicant a priority of right as of the date of said application to such water or the use thereof until such application shall have been approved or rejected by said commission: *provided*, that such priority shall continue only so long as the provisions of law and the rules and regulations of the water commission shall be followed by the applicant. Upon the approval of any application by the commission, said approval shall give priority of right as of the date of said application, and shall give the right to take and use the amount of water specified in said approval until the issuance by the state water commission of a license for the use of said amount of

water, or until the said commission refuses to issue said license. But the approval of any application shall give the right to take and use water only to the extent and for the purpose allowed in said approval; *provided*, that any defective application made in a bona fide attempt to conform to the rules and regulations of the state water commission and to the law shall secure to the applicant a priority of right as of the date of said application until he shall have been notified by said commission in what respect his application is defective. And said applicant shall be allowed sixty days after notice of said defect in which to file an amended and perfected application. If, within said sixty days, said applicant shall not file an amended and perfected application, said priority of right shall cease and determine, unless for good cause shown the state water commission shall allow said applicant to file a further amended and perfected application; *provided, also*, that any priority of right secured under this section shall not be effective for more than thirty days after service of notice of such approval, personally or by registered mail, on the applicant, unless within said period of thirty days a true copy of said approval upon which such priority is based shall have been filed in the office of the recorder of the county or city and county in which the water is to be delivered, and, within ten days thereafter, a certificate of such filing by the county recorder is also filed with the state water commission.

SEC. 18. Actual construction work upon any project shall begin within such time after the date of the approval of the application as shall be specified in said approval, which time shall not be less than sixty days from date of said approval, and the construction of the work thereafter shall be prosecuted with due diligence in accordance with this act, the terms of the approved application, and the rules and regulations of said commission; and said work shall be completed in accordance with law, the rules and regulations of the state water commission, and the terms of the approved application and within a period specified in the permit; but the period of completion specified in the permit may, for good cause shown, be extended by the state water commission. And if such work be not so commenced, prosecuted and completed, the water commission shall, after notice in writing and mailed in a sealed, postage-prepaid and registered letter addressed to the applicant at the address given in his application for a permit to appropriate water, and a hearing before the commission, revoke its approval of the application. But any applicant, the approval of whose application shall have been thus revoked, shall have the right to bring an action in the superior court of the county in which is situated the point of proposed diversion of the water for a review of the order of the commission revoking said approval of the application. And thirty days after the revocation of said permit all rights of the said permittee under said permit shall cease and lapse, unless said permittee shall within said thirty days after said revocation bring an action in the superior court for a review of the order of revocation. The priority of right of any permittee so bringing an action shall continue under said permit until a final judgment is rendered as to the reasonableness of the revocation of said permit. But until and unless the revocation of the permit shall be finally decreed by such court, the permittee shall not take or use any of the water the right to take and use which is granted by said permit.

SEC. 19. Immediately upon completion, in accordance with law, the rules and regulations of the state water commission, and the terms of the permit, of the project under such application, the holder of a permit for the right to appropriate water shall report said completion to the state water commission. The said commission shall immediately thereafter cause to be made a full inspection and examination of the works constructed and shall determine whether the construction of said works is in conformity with law, the terms of the approved application, the rules and regulations of the state water commission, and the permit. The said water commission shall, if said determination is favorable to the applicant, issue a license which shall give the right to the diversion of such an amount of water and to the use thereof as may be necessary to fulfill the purpose of the approved application. Said license shall be in such form as may be prescribed by the state water commission under the provisions of this act. But if the said

commission shall find, upon inspection and examination of the works constructed, that the construction and condition of said works are not in conformity with the law, the rules and regulations of the state water commission, the terms of the approved application and the terms of the permit, then and in that case the said commission may, after due notice in writing and in the manner provided in sections one thousand and eleven, one thousand and twelve, and one thousand and thirteen of the Code of Civil Procedure to the applicant or the holder of the permit, and a public hearing thereon, refuse to issue said license. And thirty days after the refusal of said commission to issue said license all rights of the applicant and the holder of the permit under said application and permit shall lapse and cease. But the holder of any permit to whom the said water commission may have refused to issue said license, shall have the right to bring an action within thirty days after said refusal, in the superior court to review said order and to obtain a decree requiring the issuance of such license. And the rights of the holder of any permit so bringing an action shall continue under said permit until the decree in such action has been entered and become final. But until the refusal of the commission to issue said license shall be finally determined by the courts, the permittee shall not take or use any of the water, the taking and using of which is granted to him by said permit. And if the holder of any permit which has been revoked by the state water commission shall not bring an action within said thirty days in the superior court to determine the validity of said revocation, then and in that case all rights of the applicant and of the holder of said permit shall lapse and cease.

SEC. 20. All permits and licenses for the appropriation of water shall be under the terms and conditions of this act, and shall be effective for such time as the water actually appropriated under such permits and licenses shall actually be used for the useful and beneficial purpose for which said water was appropriated, but no longer; and every such permit or license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this section and likewise the statement that any appropriator of water, to whom said permit or license may be issued, shall take the same subject to such conditions as therein expressed; *provided*, that at any time after the expiration of twenty years after the granting of a license, the state or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the state shall have the right to purchase the works and property occupied and used under said license and the works built or constructed for the enjoyment of the rights granted under said license; and in the event that the said state, city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state so desiring to purchase and the said owner of said works and property can not agree upon said purchase price, said price shall be determined in such manner as is now or may hereafter be determined in eminent domain proceedings. If it shall appear to the state water commission at any time after a permit or license is issued as in this act provided that the permittee, or licensee, or the heirs, successors, or assigns, of said permittee or licensee, has not put the water granted under said permit or license to the useful or beneficial purpose for which the permit or license was granted, or that the permittee or licensee, or the heirs, successors, or assigns of said permittee or licensee, has ceased to put said water to such useful or beneficial purpose, or that the permittee or licensee, or the heirs, successors or assigns of said permittee or licensee, has failed to observe any of the terms and conditions in the permit or license as issued, then and in that case the said commission, after due notice to the permittee, licensee, or the heirs, successors or assigns of such permittee or licensee, and a hearing thereon, may revoke said permit or license and declare the water to be unappropriated and open to further appropriation in accordance with the terms of this act. The findings and declaration of said commission shall be deemed to be *prima facie* correct until modified or set aside by a court of competent jurisdiction; *provided*, that any action brought so to modify or set aside such finding or declaration must be commenced within thirty days after the service of notice of said revocation on said permittee or licensee, his heirs, successors or assigns. And every licensee or permittee under the provisions

of this act if he accepts such permit or license shall accept the same under the conditions precedent that no value whatsoever in excess of the actual amount paid to the state therefor shall at any time be assigned to or claimed for any permit or license granted or issued under the provisions of this act, or for any rights granted or acquired under the provisions of this act, in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or licensee, his heirs, successors or assigns or by the holder of any rights granted or acquired under the provisions of this act, or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the state or any city, city and county, municipal water district, irrigation district, lighting district or any political subdivision of the state, of the rights and property of any permittee or licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this act. The application for a permit by municipalities for the use of water for said municipalities or the inhabitants thereof for domestic purposes shall be considered first in right, irrespective of whether they are first in time; *provided, however*, that such application for a permit or the granting thereafter of permission to any municipality to appropriate waters, shall not authorize the appropriation of any water for other than municipal purposes; *and providing, further*, than where permission to appropriate is granted by the state water commission to any municipality for any quantity of water in excess of the existing municipal needs therefor, that pending the application of the entire appropriation permitted, the state water commission shall have the power to issue permits for the temporary appropriation of the excess of such permitted appropriation over and above the quantity being applied from time to time by such municipality; *and providing, further*, that in lieu of the granting of such temporary permits for appropriation, the state water commission may authorize such municipality to become as to such surplus a public utility, subject to the jurisdiction and control of the railroad commission of the state of California for such period or periods from and after the date of the issuance of such permission to appropriate, as may be allowed for the application to municipal uses of the entire appropriation permitted; *and provided, further*, that when such municipality shall desire to use the additional water granted in its said application it may do so upon making just compensation for the facilities for taking, conveying and storing such additional water rendered valueless for said purposes, to the person, firm or corporation which constructed said facilities for the temporary use of said excess waters, and which compensation, if not agreed upon between the municipality and said person, firm or corporation, may be determined in the manner provided by law for determining the value of property taken by and through eminent domain proceedings.

SEC. 20a. When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, for a period of three years, such unused water shall revert to the public and shall be regarded as unappropriated public water. (*Amended 1917.*)

SEC. 21. Nothing herein contained shall be construed to deprive the state or any city, city and county, municipal water district, irrigation district, lighting district or political subdivision of the state, or any person, company or corporation of any rights which, under the law of this state they may have, to acquire property by or through eminent domain proceedings.

SEC. 22. Licenses hereafter granted for water or use of water shall be subject to the right of the state to impose the fees and charges provided in this act.

SEC. 23. Every person, firm, association or corporation making application for a permit to appropriate water or the use of water under this act shall pay to the state water commission, at the time of filing said application, a filing fee in the sum of five dollars, and, upon the issue of a permit, the additional fee, if the purpose or use is for the generation of electricity or electrical or other power, of ten cents for each theoretical horsepower capable of being developed by the works up to and including one hundred theoretical horsepower, of five cents for each horsepower in excess

of one hundred theoretical horsepower up to and including one thousand theoretical horsepower, and of one cent for each theoretical horsepower in excess of one thousand theoretical horsepower; also, if for agricultural purposes, of five cents for each acre of land to be irrigated by means of said appropriation to and including one hundred acres, of three cents per acre for each acre in excess of one hundred acres up to and including one thousand acres, and of two cents for each acre over one thousand acres. All fees shall forthwith be paid into the state treasury by the state water commission. No fee shall be required from any person, firm, association, or corporation exempt by any law of the state of California from the payment of such fee. (*Amended 1917.*)

SEC. 24. In case suit is brought in the superior court for determination of rights to water or the use of water, the case may, in the discretion of the court, be transferred to the state water commission for investigation, as referee. (*Amended 1917.*)

SEC. 25. Upon its own initiative or upon petition signed by one or more claimants to water or the use of water upon any stream, stream system, lake, or other body of water, all of which sources of supply are hereinafter referred to as "stream system," requesting the determination of rights, based upon prior appropriation, of the various claimants to the water of that stream system, it shall be the duty of the state water commission, if, upon investigation, it finds the facts and conditions are such as to justify, to enter an order granting said petition and to make proper arrangements to proceed with such determination. (*Amended 1917.*)

SEC. 26. As soon as practicable after the state water commission shall make and enter the order granting the said petition or selecting the stream system upon which the determination of water rights by appropriation is to begin, it shall prepare a notice setting forth the fact of the entry of said order and of the pendency of the said proceedings, the date when the state water commission shall begin said examination, and that all claimants to rights by appropriation of the waters of said stream system are required, as in this act provided, to make proof of their claims. The notice shall be published for a period of four consecutive weeks in one or more newspapers of general circulation published in each county in which any part of said stream system is situated. (*Amended 1917.*)

SEC. 27. At the time set in said notice, the state water commission shall begin an investigation of the flow of the stream system and of the conduits diverting water, and of the lands irrigated or irrigable therefrom, and shall gather such other data and information as may be essential to the proper determination of the water rights by appropriation. It shall reduce its observations, data, information and measurements to writing. It shall execute surveys and shall prepare maps from the observations of such surveys in accordance with such uniform rules and regulations as it may adopt; which surveys and maps shall show with substantial accuracy the course of the stream or streams; the location of each conduit diverting water therefrom, land irrigated and capable of being irrigated by each conduit, and the kind of culture upon the irrigated land. The maps shall be prepared as the surveys and observations progress, and, when completed, it [they] shall be filed and made of record in the office of the state water commission. (*Amended 1917.*)

SEC. 28. Upon the completion of such measurements and maps, and filing of said observations, data, information and measurements, the state water commission shall prepare a notice setting forth the date, prior to which the proofs, to be furnished by claimants upon forms supplied by the state water commission and more specifically referred to in the next section hereof, as to the rights by appropriation of the waters of said stream system, shall be filed; *provided, however*, that the date set, prior to which said proofs must be filed, shall not be less than sixty days from the date of the last publication of said notice as hereinafter provided. The notice shall be deemed to be an order of the state water commission as to its contents, and it shall be published by the state water commission for a period of four consecutive weeks in one or more newspapers of general circulation published in each county in which any part of said stream system is situated. At or near the time of the first publication of said notice it shall be the duty of the state water commission to send by registered mail to each claimant to rights by appropriation of the waters of said

stream system, in so far as such claimant can be reasonably ascertained at his last known place of address, a notice equivalent in terms to the said published notice. (*Amended 1917.*)

SEC. 29. The state water commission shall, in addition, enclose with the notice to be mailed as aforesaid, blank forms, proofs of appropriation, upon which said claimant shall present in writing all particulars necessary for the determination of his right by appropriation of the waters of said stream system, the said statement to include the following:

- (a) The name and post-office address of the claimant.
- (b) The nature of the right or use on which the claim for appropriation is based.
- (c) The date of the initiation of such right and a description of works of diversion and distribution.
- (d) The date of beginning of construction.
- (e) The date when completed.
- (f) The dates of beginning and completion of enlargements.
- (g) The dimensions of the ditch as originally constructed and enlarged.
- (h) The date when water was first used for irrigation or other beneficial purposes, and if used for irrigation, the amount of land irrigated the first year, the amount in subsequent years, with the dates of irrigation and the area and the location of the lands which are intended to be irrigated.
- (i) The character of the soil and the kind of crops cultivated, and such other facts as will show the extent and nature of the right and a compliance with the law in acquiring the same, as may be required by the state water commission. Each claimant shall be required to certify to his statements, under oath. (*Amended 1917.*)

SEC. 30. After the date fixed for the filing of proofs, no proofs shall be received or filed with the state water commission; *provided, however*, that the state water commission may, for cause shown, in its discretion, extend the time in which proofs may be filed. Upon neglect or refusal of any person to make proof of his claim to rights by appropriation of the waters of such stream system, as required by this act, prior to the expiration of the period fixed by the state water commission, during which proofs may be filed, the state water commission shall determine the right by appropriation of such person on such evidence as it may obtain or may have on file in its office in the way of maps, plats, surveys and transcripts; and exceptions to such determination may be filed in court as hereinafter provided. (*Amended 1917.*)

SEC. 31. Any claimant of a right by appropriation of the water of any stream system upon whom no service of notice shall have been had of the pendency of proceedings for the determination of the rights by appropriation of the waters of said stream system, and who shall have had no actual knowledge or notice of the pendency of said proceedings, may at any time prior to the expiration of three months after the entry of the determination of the state water commission, as provided in section thirteen of this act, file a petition to intervene in said proceedings. Such petition shall be under oath and shall contain, among other things, all matters required by this act of claimants who have been duly served with notice of said proceedings, and also a statement that the intervenor had no actual knowledge or notice of the pendency of said proceedings. Upon the filing of said petition in intervention, the petitioner shall be allowed to intervene and thereafter shall have all the rights and be subject to all the duties of the claimants who have been duly served. (*Amended 1917.*)

SEC. 32. At the time of submission of proof of appropriation, the state water commission shall collect from such claimants, on the basis of the statements in the proofs, a fee of fifteen cents for each acre of irrigated or irrigable lands up to and including one hundred acres, ten cents for each acre in excess of one hundred acres and up to and including one thousand acres, and five cents per acre for each acre in excess of one thousand acres; also twenty-five cents for each theoretical horsepower up to and including one hundred horsepower, fifteen cents for each theoretical horsepower in excess of one hundred horsepower and up to and including one thousand horsepower, and five cents for each theoretical horsepower in excess of one thousand horsepower; also five (5) dollars for each cubic foot per second, or fraction thereof,



claimed for any purpose other than irrigation or power; the minimum fee however, for any claimant to be five (5) dollars. All fees charged and collected under this section shall be paid, at least once each month, accompanied by a detailed statement thereof, into the treasury of the state. (*Amended 1917.*)

SEC. 33. As soon as practicable after the expiration of the period fixed in which proofs may be filed, the state water commission shall assemble all proofs which have been filed, and prepare and certify an abstract of all of the said proofs, which shall be printed in the state printing office. As soon as practicable the state water commission shall prepare a notice fixing and setting a time and place, reasonably convenient to the claimants, when and where the evidence taken by or filed with it shall be open to the inspection of all interested persons, said period of inspection to be not less than ten (10) days, which notice shall be deemed to be an order of the state water commission as to the matters contained therein. A copy of said notice, together with a printed copy of the said abstract of proofs, shall be sent by registered mail, at least fifteen (15) days prior to the first day of such period of inspection, to each claimant who has appeared and filed proof as herein provided. A representative of the state water commission shall be present at the time and place designated in said notice, and allow, during said period, any person interested to inspect such evidence and proofs as have been filed in accordance with this act. (*Amended 1917.*)

SEC. 34. Should any claimant desire to contest any of the statements and proofs of claims filed with the state water commission by any other claimant to the waters of the stream system, he shall, within fifteen (15) days after said evidence and proofs shall have been opened to public inspection, or within such further time as for good cause shown may be allowed by the state water commission upon application made prior to the expiration of said fifteen (15) days, in writing, notify the state water commission, stating with reasonable certainty the grounds of the proposed contest, which statement shall be verified by the affidavit of the contestant, his agent or attorney. The statements or proofs of the person whose rights are contested and the verified statement of the contestant shall be deemed sufficient to constitute a proper cause for such contest. (*Amended 1917.*)

SEC. 35. Within ten (10) days after the receipt of the notice of contest the state water commission shall notify by registered mail the contestant and the claimant whose rights are contested to appear before it at a time and place specified in said notice, and that at said time and place said contest will be heard; *provided*, that said time shall not be less than fifteen (15) days nor more than sixty (60) days from the date of the mailing of the notice of the commission. The state water commission shall have power to adjourn hearings of contests from time to time upon reasonable notice to all parties in interest, and to issue subpoenas for and compel the attendance of witnesses to testify before it and to produce papers, books, maps, and other documents. The costs of making testimony at a hearing shall be borne by the parties thereto as follows: each party shall pay for the direct examination of his own witness and the cross-examination of opponent's witness and shall share equally for that part of the examination directed by the representative of the commission. One copy of the transcript of testimony taken at the hearing shall be furnished to the commission and the cost thereof borne equally by the parties. (*Amended 1917.*)

SEC. 36. As soon as practicable after the hearing of contests, it shall be the duty of the state water commission to make, and cause to be entered of record in its office, an order determining and establishing the several rights by appropriation of the waters of said stream; *provided, however*, that within sixty (60) days after the entry of an order establishing water rights, the state water commission may, for good cause shown, reopen the proceedings and grant a rehearing. Such order and determination shall be prepared, and after certification by the state water commission, printed in the state printing office. A copy of said order of determination shall be sent by registered mail to each person who has filed proof of claim, and to each person who has become interested through intervention or as a contestant under the provisions of section eight or section eleven of this act. (*Amended 1917.*)

SEC. 36a. As soon as practicable, after the entry of the order of determination, a certified copy thereof, together with the original evidence and transcript of testimony filed with, or taken before the state water commission, as aforesaid, duly certified by it, shall be filed with the clerk of the superior court of the county in which said stream system, or any part thereof, is situated. Upon the filing of the certified copy of said order, evidence, and transcript with the clerk of the court in which the proceedings are to be had, the state water commission shall procure an order from said court setting a time for hearing. The clerk of such court shall immediately furnish the state water commission with a certified copy of said order. It shall be the duty of the state water commission immediately thereupon to mail a copy of such certified order of the court, by registered mail, addressed to each known party in interest at his last known place of residence, and to cause the same to be published at least once a week for four consecutive weeks in some newspaper of general circulation published in each county in which such stream system or any part thereof is located, and the state water commission shall file with the clerk of the court proof of such service by registered mail and by publication. Such service by registered mail and by publication shall be deemed full and sufficient notice to all parties in interest of the date and purpose of such hearing. (*Amended 1917.*)

SEC. 36b. At least ten days prior to the day set for hearing, all parties in interest who are aggrieved or dissatisfied with the order of determination of the state water commission shall file with the clerk of said court notice of exceptions to the order of determination of the state water commission, which notice shall state briefly the exceptions taken, the reasons therefor, and the prayer for relief, and a copy thereof shall be transmitted by registered mail at least ten (10) days prior to such hearing, to the state water commission and to each claimant, who was an adverse party to any contest wherein such exceptor was a party in the proceedings. The order of determination by the state water commission and the statements or claims of claimants and exceptions made to the order of determination shall constitute the pleadings but the court may allow such additional or amended pleadings as may be necessary to a final determination of the proceeding. If no exceptions shall have been filed with the clerk of the court as aforesaid, then on the day set for the hearing, on motion of the state water commission, or its attorney, the court shall enter a decree affirming said order of determination. On the day set for hearing all parties in interest who have filed notices of exceptions as aforesaid shall appear in person, or by counsel, and it shall be the duty of the court to hear the same or set the time for hearing, until such exceptions are disposed of, and all proceedings thereunder shall be as nearly as may be in accordance with the rules governing civil actions. Whenever in the judgment of the court the state is a necessary party to the action, the court shall make an order to that effect and thereupon a copy of all pleadings and proceedings on file with the court in said matter shall be served upon the attorney general who shall represent the state therein. (*Amended 1917.*)

SEC. 36c. For further information on any subject in controversy, the court may employ one or more qualified persons to investigate and report thereon under oath, subject to examination by any party in interest as to his competency to give expert testimony thereon. The court may take additional evidence on any issue and may, if necessary, refer the case for such further evidence to be taken by the state water commission as it may direct, and may require a further determination by it. After the hearing, the court shall enter a decree determining the right of all persons involved in such proceeding. Said decree shall in every case declare as to the water right by appropriation adjudged to each party, the extent, priority, amount, purpose of use, point of diversion, and place of use of said water; and as to water used for irrigation, such decree shall also declare the specific tracts of land to which it shall be appurtenant, together with such other conditions as may be necessary to define the right and its priority. Upon the hearing the court may assess and adjudge against any party such costs as it may deem just. Appeals from such decree may be taken to the supreme court by the state water commission or any party in interest, in the same manner and with the same effect as in civil cases. (*Amended 1917.*)

SEC. 36d. A certified copy of the decree of the superior court shall be prepared by the clerk thereof, without charge, and filed for record in the office of the county recorder of each county in which any part of the stream system is situated and also in the office of the state water commission. It shall be the duty of the state water commission to issue to each claimant represented in such determination a certificate to be signed by the president of the state water commission, and attested under seal of the secretary of said commission, setting forth the name and post-office address of the owner of the right; the priority of the date, extent and purpose of such right; and, if such water be for irrigation purposes, a description of the legal subdivisions of land to which said water is appurtenant. (*Amended 1917.*)

SEC. 36e. Whenever proceedings shall be instituted for the determination of rights by appropriation of water, it shall be the duty of all claimants interested therein and having notice thereof as in this act provided, to appear and submit proof of their respective claims at the time and in the manner required by law; and any such claimant who shall fail to appear in such proceedings and submit proof of his claim shall be barred and estopped from subsequently asserting any rights theretofore acquired upon, the stream system, embraced in such proceedings, and shall be held to have forfeited all rights by appropriation to said water theretofore claimed by him on such stream system, unless entitled to relief under the laws of this state: *provided*, that such proceedings shall result in a determination by the state water commission and a decree by the superior court determining the rights on such stream. Such decree shall be conclusive as to the rights by appropriation of all existing claimants upon the stream system lawfully embraced in the determination. (*Amended 1917.*)

SEC. 36f. The state water commission shall have authority and power in making a determination as to the rights by appropriation of the waters of any stream system, to fix a time limit for the completion of all appropriations of water from such stream, where such rights of appropriations were initiated prior to December 19, 1914, and since prosecuted with reasonable diligence, and such appropriators having been duly notified as provided in this act, must appear and submit their proofs of claim, in accordance with section twenty-eight of this act, or they shall be deemed and held to be in default, and to have abandoned or to have no right, title or interest in or to the waters of such stream. In determining rights of such appropriators, the state water commission shall prescribe such a reasonable time for the completion of such appropriations, and the application of the water appropriated to a beneficial use, as will enable such appropriators acting in good faith and with due diligence to complete the same. The findings of the state water commission shall provide for the submission of proof or evidence as to the completion of such appropriation and the amount of water actually applied to beneficial use upon the expiration of such time limit, and shall, in accordance with such proof, enter supplemental findings, establishing and determining such rights of appropriation, in so far as the same shall have been completed; and certificates of water right shall be issued in accordance with such supplemental findings and order of determination of said commission; but this section shall not be construed to confer any rights of appropriation upon parties who shall have abandoned their said appropriations or failed to use due diligence in the application of the water to a beneficial use and in the completion of their appropriations; and all such appropriators, who shall fail to complete their said appropriations within the limit of time fixed by the state water commission in said findings, or such further time granted upon application made prior to the expiration of such time limit, as the state water commission shall find equitable and just, shall be deemed to have abandoned their rights of appropriation, and rights acquired by virtue thereof waived, and such appropriators shall be deemed and held to have no right, title or interest in or to the waters of such stream by virtue of their said appropriations. The findings and determination of the state water commission made under the provisions of this section may be reviewed in the manner prescribed by section thirty-six b of this act. (*Amended 1917.*)

SEC. 37. The power to supervise the distribution of water in accordance with the priorities established under this act, when such supervision does not contravene the

authority vested in the judiciary of the state, is hereby vested in the state water commission.

SEC. 38. The diversion or use of water subject to the provisions of this act other than as it is in this act authorized is hereby declared to be a trespass, and the state water commission is hereby authorized to institute in the superior court in and for any county wherein such diversion or use is attempted appropriate action to have such trespass enjoined.

SEC. 39. Water or the use of water which has heretofore been appropriated or acquired, or which shall hereafter be appropriated or acquired for one specific purpose, shall not be deemed to be appropriated or acquired for any other or different purpose. And any person, firm, association or corporation applying to the state water commission for a license to appropriate water or the use of water shall state in the application for said license the specific purpose to which it is proposed to put such water or the use thereof. Water heretofore or hereafter appropriated for other than domestic use, may be applied to domestic use, in whole or in part, without a separate and distinct appropriation being made therefor. And water appropriated for one purpose under the provisions of this act may be subsequently appropriated for other purposes under the provisions of this act: *provided*, that such subsequent appropriation shall not injure any previous appropriation.

SEC. 40. The state water commission is also authorized and empowered to investigate any natural situation available for reservoirs or reservoir systems for gathering and distributing flood or other waters not under beneficial use in any stream, stream system or lake or other body of water, and to ascertain the feasibility of such projects, including the supply of water that may thereby be made available, the extent and character of the areas that may be thereby irrigated, and make estimate of the cost of such project.

SEC. 41. Nothing in this act shall be construed as depriving any city, city and county, municipal water district, irrigation district or lighting district of the benefit of any law heretofore or hereafter passed for their benefit in regard to the appropriation or acquisition of water or the use of water; and nothing in this act shall affect or limit in any manner whatsoever the right or power of any municipality which has heretofore appropriated or acquired water or the use of water for municipal purposes, to use or to sell or otherwise dispose of such water or the use thereof, either within or without its limits for domestic, irrigation or other purposes, in accordance with laws in effect at the time of the passage of this act.

SEC. 42. The word "water" in this act shall be construed as embracing the term "or use of water"; and the term "or use of water" in this act shall be construed as embracing the word "water." Whenever the terms stream, stream system, lake or other body of water or water occurs in this act, such term shall be interpreted to refer only to surface water, and to subterranean streams flowing through known and definite channels. But nothing in this act shall be construed as giving or confirming any right, or title, or interest to or in the corpus of any water; *provided*, that the term "useful or beneficial purposes" as used in this act shall not be construed to mean the use in any one year of more than two and one-half acre-feet of water per acre in the irrigation of uncultivated areas of land not devoted to cultivated crops.

SEC. 43. Nothing in this act shall be construed as depriving any person, firm, association or corporation of the right of appeal conferred under the laws of this state.

SEC. 44. All acts or parts of acts in conflict herewith are hereby repealed.

SEC. 45. This act shall be known as the "water commission act."

SEC. 46. If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

## EXTRACTS FROM BULLETIN No. 61, U. S. BUREAU OF MINES.

ABSTRACT OF CURRENT DECISIONS ON MINES  
AND MINING.**Discovery Necessary.**

There can be no valid location of a mining claim until a sufficient actual discovery of mineral is made on the claim and no question of the doing of annual assessment work is involved, as it is only after such a discovery, when actual possession is no longer necessary to protect the location against subsequent locators, that annual assessment work is essential to prevent a forfeiture.

(*Borgwardt vs. McKittrick Oil Co.*, 130 Pac. 417 (Cal.), March, 1913.)

**Character of Minerals Subject to Location.**

In a contest between a placer and a lode locator a court has jurisdiction to determine whether the mineral land in controversy was of a character which entitled it to be located as a placer mine, or whether it could only be entered as a lode mining claim, for the reason that if the land was not subject to location as a placer claim the placer claimant obtained no possessory right thereto.

(*San Francisco Chemical Co. vs. Duffield*, 201 Fed. 830, p. 834, November, 1912.)

**Lands Already Appropriated.**

No right to a mining claim can be initiated while the ground is in possession of another who has the right to its possession under an earlier lawful location, nor can such a claim be initiated by forcible or fraudulent entry upon land in possession of one who has no right either to the possession or to the title.

(*San Francisco Chemical Co. vs. Duffield*, 201 Fed. 830, p. 834.)

**Marking Boundaries.**

The marking upon the ground of the boundaries of a mining location should be made so certain and so plain that any one prospecting in the same locality would have no trouble in locating the exact ground claimed; but any makings on the ground by stakes, monuments, mounds, and written notices whereby the boundaries can be readily traced, are sufficient, and if a third party is intending to locate can readily ascertain from what has been done by the prior locator, the extent and boundaries of the existing location, then the statute has been sufficiently complied with.

(*Madcira vs. Sonoma Magnesite Co.*, 130 Pac. 175 (Cal.), December, 1912.)

**Failure to Mark Boundaries.**

A locator of a mining ground who failed to definitely mark the boundaries of his location and left his claim unmarked from September, 1905, to June, 1906, and knew that another person had located a part of the same ground and performed a large amount of labor thereon without knowledge of such prior location, did not act within a reasonable time in definitely marking his claim on the ground so that its boundaries could be readily traced.

(*Madcira vs. Sonoma Magnesite Co.*, 130 Pac. (Cal.), December, 1912.)

**Excessive Ground.**

A mining location duly made according to the mining laws is not invalid where the locator includes within the boundaries of his claim more than the law permits, as in such case he is entitled to hold to the limit which the law authorizes within the limits he has laid out, and the territory embraced within his boundaries in excess of such limits is to be rejected; but where a locator relies upon the corners established and marked out, a different rule governs, and if the courses are so widely separated

from where they should be as to bear no relation to the lode, and so remote as to justify reasonable inference that they were not intended to apply to the lode in question, they would add little if any force to the claim that the law had been complied with, and especially so where the notice once posted at the discovery point had disappeared or where the lode line was not distinctly marked.

(*Madeira vs. Sonoma Magnesite Co.*, 130 Pac. 175 (Cal.), December, 1912.)

### Entry on Existing Location.

A provisional location can not be made upon an existing mining claim with the intention on the part of the locator that the validity of such provisional location depends on whether or not the prior locator fails to do the annual assessment work and thereby forfeits the existing claim.

(*Rooney vs. Barnette*, 200 Fed. 700, p. 708, October, 1912.)

### Placer Claims.

By a placer claim is meant ground within defined boundaries containing mineral in its earth, sand or gravel—ground that includes valuable deposits not in place, nor fixed in rock, but which are in a loose state and that may usually be collected by washing or amalgamation without milling.

(*San Francisco Chemical Co. vs. Duffield*, 201 Fed. 830, p. 836, November, 1912.)

### Placer and Lode Claims—Rock Phosphate.

Calcium phosphate or rock phosphate found in place having a dip and strike, firmly fixed in the mass of a mountain and occurring between strata of limestone, chert, and shale, where the line of demarcation between veins of such phosphate rock and wall rock of limestone or shale is well defined and distinct, and where the distinction between such phosphate rock, having commercial value, is readily determined by visual inspection, is subject to location under the mining laws only as a vein or lode and not as a placer claim.

(*San Francisco Chemical Co. vs. Duffield*, 201 Fed. 830, p. 836, November, 1912.)

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## EXTRACTS FROM BULLETIN No. 90, U. S. BUREAU OF MINES.

### Mining Claims.

#### MINERAL CHARACTER OF LAND.

##### Classification—Meaning of Vein and Lode.

In order to determine whether lands containing a given mineral deposit are of the class subject to location and patent under the law applicable to lode claims, resort is to be had to the language of the statute rather than to definitions of the terms "vein," "lode," and "ledge" as given by geologists from a scientific viewpoint; but the statute is to be construed in the light of the prevailing and commonly known use of these terms as defined by miners as the result of their practical experience in mining, and the definitions given by the courts are not those of geologists, but are to be considered and used in the signification which they convey to the practical miner and not in the sense generally used by the scientific men.

(*East Titanic Min. Co., In re*, 43 Land Dec., 79, p. 81, January, 1914.)

### GENERAL FEATURES.

#### Mine—What Constitutes.

A mine is variously defined: An opening or excavation in the earth for the purpose of extracting minerals; a pit or excavation in the earth from which metallic ores or other mineral substances are taken by digging; an opening in the earth made for the

purpose of taking out minerals, and in case of coal mines, commonly a worked vein; an excavation properly underground for digging out some usual product, as ore, metal, or coal, including any deposit of any material suitable for excavation and working, as a placer mine; the underground passage and workings by which the minerals are gotten together with these minerals themselves; the term "mine" when applied to coal is generally equivalent to a worked vein, for by working the vein it becomes a mine; the mode of obtaining the material and not the nature of the material itself is to be considered in order to come to a decision whether it constitutes a mine.

(*Northern Pac. R. Co. vs. Mjelde* (Montana), 137 Pacific, 386, p. 389, December, 1913.)

#### **Extent of Claim.**

The locator of a lode mining claim can not claim a greater length in either direction along the vein or lode than is specified in his location notice.

(*Swanston vs. Koeninger* (Idaho), 137 Pacific, 891, p. 892, December, 1913.)

#### **Amended Location.**

The locator of a mining claim may amend his location if it can be done without prejudice to the rights of others.

(*Gobert vs. Butterfield* (California), 136 Pacific, 316, p. 517, October, 1913.)

#### **Excessive Location—Effect.**

A location in excess of the statutory limit, made in good faith and with injury to others, is voidable only as to the excess.

(*Gobert vs. Butterfield* (California), 136 Pacific, 516, p. 517, October, 1913.)

### **MARKING BOUNDARIES.**

#### **Marking Boundaries on the Ground—Purpose.**

The object of the law in requiring the location of the mining claim to be marked upon the ground is to fix the claim to prevent floating or swinging, so that persons who in good faith are looking for unoccupied ground in the vicinity of the location may be enabled to ascertain exactly what ground has been appropriated in order to make their locations upon the residue.

(*Swanston vs. Koeninger* (Idaho), 137 Pacific, 891, p. 893, December, 1913.)

#### **Marking Boundaries—Effect and Obliteration.**

When a mining claim is once sufficiently marked on the ground and all necessary location acts are performed, the locator is vested with a right which can not be divested by a subsequent obliteration of the marks or removal of the stakes, without his fault, and the fact that the original stakes can not in later years be found raises no presumption against the validity of the original marking.

(*Gobert vs. Butterfield* (California), 136 Pacific, 516, p. 517, October, 1913.)

### **ASSESSMENT WORK.**

#### **Construction of Road.**

Labor performed by the owner of a mining claim in constructing a wagon road thereto for the purpose of better developing and operating his mine and for the purpose of aiding in the conduct of mining operations on the particular claim to which it is sought to be accredited, the value whereof is duly certified by the surveyor general, may be accredited as assessment work or as development work required as a prerequisite to the issuance of a patent.

## IMPROVEMENTS.

### Expenditures for Drill Holes.

Expenditures made upon drill holes placed upon a lode mining claim in good faith with a view to prospect the claim, or in order to secure data upon which further development work may be performed, are available toward meeting the statutory provision requiring an expenditure of \$500 as a basis of patent, as to all of the claims of a group situated in close proximity to the common improvement.

(*East Titanic Min. Co., In re*, 43 Land Dec., 79, p. 83, January, 1914.)

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## EXTRACTS FROM BULLETIN No. 101, U. S. BUREAU OF MINES.

### Mining Claims.

#### GENERAL FEATURES.

##### Mining Locations on Apex of Vein.

The course of a vein appearing on the surface is the course of its apex, and as a miner is required to locate his claim along the vein this means that he must locate it along the outcrop or course of the apex if it is found impracticable for him to locate it along the strike of the vein.

(*Stewart Mining Co. vs. Bourne*, 218 Fed., 327, p. 329.)

#### PLACER CLAIMS.

##### Known Lodes—Placer Patent.

Neither a deed for a placer location nor a lode location upon the land by the placer applicant himself is prima facie evidence of a known lode, and both are deprived of all value by evidence of the nonexistence of a lode, and a lode subsequently located within the placer limits can not be "known to exist" at the time of a placer application for patent, where it appears that it was in fact discovered in the bedrock when the placer deposits were removed by extensive work long subsequent to the patent application.

(*Barnard Realty Co. vs. Nolan*, 215 Fed., 996, p. 998.)

##### Title to Known Lodes.

Known lodes, though unidentified and indefinite, are excepted and excluded from placer patents, and title to them remains in the United States, and at any time thereafter they may be, by strangers, to the patent, possessed, located, and patented as any other lode upon public lands.

(*Barnard Realty Co. vs. Nolan*, 215 Fed., 996, p. 999.)

##### Application for Placer Patent—Ownership of Known Lodes.

Where lodes known to exist are excepted from a placer grant, title to them continues in the United States and they are open to location as lodes in public land by third persons at any time.

(*Clark Montana Realty Co. vs. Ferguson*, 218 Fed., 959, p. 963.)



## EXTRACTS FROM BULLETIN No. 113, U. S. BUREAU OF MINES.

**Minerals and Mineral Lands.****MINERALS.****Oil and Gas as Minerals.**

Oil and gas within the ground are minerals and the fact that they have attributes not common to other minerals because of their fugitive nature or vagrant habit, and the disposition to percolate, and the possibility of their escape from beneath one part of the surface to another, does not remove them from the class of minerals.

(*Texas Co. vs. Daugherty* (Texas), 176 Southwestern, 717, p. 719, May, 1915.)

**Mining Claims.****NATURE AND GENERAL FEATURES.****Nature of State Statutes.**

The disposition of mining ground is wholly within the control of the federal government, and state statutes for regulation of the location of mining claims and for protection of the possession thereof are statutes of peace and repose, intended to prevent disorder in claiming and holding mining ground.

(*Florence-Rae Copper Co. vs. Kimbel* (Washington), 147 Pacific, 881, p. 884, January, 1915.)

**Method of Acquiring Claim.**

Congress has provided how mining claims can be acquired, and this may be done by discovery of mineral, gold, silver, or copper, and like, upon the public lands and by staking the same off or marking it upon the ground.

(*Trinity Gold Dredging & Hydraulic Co. vs. Beaudry*, 223 Federal, 739, p. 741, May, 1915.)

**Mining Claim as Property.**

A mining claim when perfected is declared to be property in the highest sense of the term, and may be bought, sold, and conveyed, and will pass by descent.

(*Trinity Gold Dredging & Hydraulic Co. vs. Beaudry*, 223 Federal, 739, p. 741, May, 1915.)

(See United States Mining Statutes Annotated, 32, 93, 122, 188, 701.)

Mining claims are property in the fullest sense of the word, distinct from the land itself, vendable, inheritable, and taxable.

(*Earhart vs. Powers* (Arizona), 148 Pacific, 286, p. 287, May, 1915.)

**DISCOVERY.****Location Without Discovery—Effect and Value.**

A mining location under the United States Statutes, without discovery of minerals, can not be said to be totally invalid and of no effect, as the title by such location and possession is good as against every person contending against it, except the government of the United States; and a transfer of such a location gives the transferee the right to proceed to prosecute work with a view of making a discovery of oil and such possession can not be disturbed by strangers, and is good and the right to such possession is sufficient as a consideration for a lease.

(*Hullinger vs. Big Sespe Oil Co.* (California), 151 Pacific, 269, p. 370, August, 1915.)

## EXTRALATERAL RIGHTS.

### Ownership of Ores at Intersection of Veins.

The owner of a senior location owns all the ore in a vein apexing within his location and owns all the ore at the point of intersection of his vein and a vein apexing in the junior location and is not subject to the charge of being a trespasser while extracting and removing the ore at such point of intersection.

*Esselstyn vs. United States Gold Corporation* (Colorado), 149 Pacific, 93, p. 95, June, 1915.)

## ASSESSMENT WORK.

### Expenses Incurred in Moving Machinery.

The expenses of getting heavy machinery to a mining claim and a mine thereon which, when in use, will tend to the development of the claim will be allowed on the annual assessment work on such claim, although the machinery and expenses incurred are not within the boundaries of the claim.

*(Florence-Rae Copper Co. vs. Kimbel)* (Washington), 147 Pacific, 881, p. 885, January, 1915.)

## POSSESSORY RIGHTS.

### Conditions—Performance of Assessment Work.

The right of continuous occupation of a mining claim properly located under the statute may be maintained by keeping up the assessment work prescribed by law; and this may be done without incurring the obligation toward the government of buying and paying for the same; and when a person entitled to the benefit of the statute has made a location in accordance therewith and has gone into possession of the same, he is said to be the owner and in the possession of the mining claim thus located.

*(Trinity Gold Dredging & Hydraulic Co. vs. Beaudry)*, 223 Federal, 739, p. 741, May, 1915.)

## MINING PARTNERSHIPS.

### Joint Ownership and Operation.

Under the Civil Code of California (section 2511), a mining partnership exists when two or more persons who own or acquire a mining claim for the purpose of working it and extracting the minerals therefrom actually engage in working the same; but the actual working of the mine by the joint owners is essential to the mining partnership.

*(Peterson vs. Beggs)* (California Appeals), 148 Pacific, 541, p. 542, March, 1915.)

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## EXTRACTS FROM BULLETIN No. 143, U. S. BUREAU OF MINES.

## Mining Claims.

### DISCOVERY.

#### Discovery Essential to Valid Location.

A location of a mining claim can not be made as against the government without the discovery of minerals within the limits of the claim.

*(United States vs. Midway Northern Oil Co.)*, 232 Federal, 619, p. 624.)

#### Liberal Construction of Statute.

In the matter of a discovery, the first essential to a valid location under the mining statutes, the extreme liberality of the courts in the construction and application of the statute has been manifested in hundreds of cases.

*(Jim Butler-Tonopah Mining Co. vs. West End Consolidated Mining Co.)* (Nevada), 158 Pacific, 875, p. 880, June, 1916.)

## VEIN.

### Limestone Belt as a Vein.

A stratum of limestone through which a mineral streak containing ore bodies can be traced and with overlying and underlying beds of quartzite marking its limits and that can be followed on its bed through a network of openings from the apex to certain disputed ore bodies, is a vein within the meaning of the United States statutes granting extralateral rights.

(*Wall vs. United States Mining Co.*, 232 Federal, 613, p. 615.)

## SURFACE VEINS.

### Effect of End Lines.

The end lines of a mining claim as the locator placed them, with the single exception of when by mistake he locates his claim across instead of along the discovered vein, fix the limit beyond which he may not go in the appropriation of any vein or veins whose apex or apexes are found within the surface lines of his claim, and the end lines of the original discovery vein are the end lines of all the veins discovered within the surface boundaries of his claim.

## PATENTS.

### Nature of Proceeding in Land Department.

The proceeding for a patent for a mining claim in the Land Department is judicial in its character, in the nature of a proceeding in rem, and its judgment by default where the proper notice of application has been given is as conclusive and impervious to collateral attack as its judgment after contest.

(*Conkling Mining Co. vs. Silver King Coalition Mines Co.*, 230 Federal, 553, p. 559.)

### Application—Compliance with Statute—Decision of Land Department.

To entitle the locator of a mining claim to a patent he is required to locate the tract claimed, not exceeding 1,500 feet in length and 300 feet on each side of the vein, to file in the proper land office an application for a patent, together with a plat and field notes of the claim made by or under the direction of the surveyor general, showing the boundaries of the claim distinctly marked on the ground so they can be readily traced, to post a copy of such a plat with a notice of the application for patent on the claim, to file an affidavit of two persons that the notice was duly published 60 days, to file with the register of the Land Department a certificate of the surveyor general that \$500 worth of labor had been expended in improvements on the claim and that the plat filed is correct, and to file his own affidavit that the plat and notice were posted on the claim. The question whether or not the applicant has sufficiently shown compliance with these and other conditions specified by the acts of Congress and is entitled to a patent, is the ultimate question which the Land Department is empowered and required to decide before the issuance of a patent for a mining claim.

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## EXTRACTS FROM BULLETIN No. 152, U. S. BUREAU OF MINES.

### Mining Claims.

## VEIN OR LODE.

### Vein—What Constitutes.

A vein or lode comes within the meaning of the United States mining statutes so long as there is a fissure or gouge or any evidence of mineralization which will lead a practical miner from one ore body to another and which does in the course of his work so lead him.

(*Alameda Mining Co. vs. Success Mining Co.* (Idaho), 161 Pacific, 862, p. 865.)

### Lode—What Constitutes.

Tilted beds of sedimentary strata containing ore would by the geologist be called beds and not lodes; but the intent of the United States mining statutes is not to make distinctions based upon genetic principles. What the geologist might call beds of ore the courts may find to be lodes within the meaning of the United States mining statutes authorizing the location of mining claims upon the public domain.

(*Alameda Mining Co. vs. Success Mining Co.* (Idaho), 161 Pacific, 862, p. 865.)

### APEX OF VEIN.

#### Terminal Edge of Vein.

An apex is the top or terminal edge of a vein on the surface, or the nearest point to the surface, and must be the top of the vein proper, rather than of a spur, and must be a point from which the vein has a dip as well as a strike.

(*Alameda Mining Co. vs. Success Mining Co.* (Idaho), 161 Pacific, 862, p. 865.)

### DISCOVERY.

#### No Rights Acquired Without Discovery.

A person who enters upon the public domain and locates land for its mineral contents, as oil lands, though he may erect appropriate monuments and post and properly file location notices, if he makes no discovery of minerals or oil, he acquires no right of any nature against the Government or any private individual, save the right to proceed with diligence to effect an actual discovery of minerals, gas or oil.

(*United States vs. McCutcheon*, 238 Fed., 575, p. 579.)

#### Status in Absence of Discovery.

The status of a locator of a mining claim in the absence of a discovery is in the nature of a tenant at sufferance.

(*United States vs. McCutcheon*, 238 Fed. 575, p. 580.)

### MARKING BOUNDARIES.

#### Compliance with Statute.

As against a subsequent locator who has actual knowledge of the existence of a mining claim and who had assisted in performing the assessment work for the year previous to his attempted relocation, it is sufficient that the original location was distinctly marked on the ground so that its boundaries could be readily traced.

(*Gold Creek Antimony Mines & Smelter Co. vs. Perry* (Washington), 162 Pacific, 996, p. 999.)

#### Marking Boundaries Upon the Ground.

The United States mining statutes (R. S. 2324) require a location to be distinctly marked upon the ground, with the name of the locator, the date of location and such references to natural objects or permanent monuments as will identify the claim. These provisions are supplemented by the statute of Washington (Remington Code, Sec. 7379). The purpose of the United States statute and of the State statute is to give notice to prospectors who are looking for mineral locations of what has been already appropriated in order that they may govern themselves accordingly. It is also the purpose to prevent fraud by swinging or floating. In accomplishing these purposes, courts are inclined to be liberal with persons making mining locations, and are not inclined to defeat a claim of a locator who has in good faith attempted to comply with the requirements of the law by technical criticism of the act relied upon to constitute a valid location.

(*Gold Creek Antimony Mines & Smelter Co. vs. Perry* (Washington), 162 Pacific, 996, p. 997.)

## DESCRIPTION.

### Survey—Monuments Control Distance.

Where mining claims were actually surveyed out on the ground and the four corners established and if in the application of descriptions in the patent to the claims as surveyed, a latent ambiguity arises in that a distance called for conflicted with the corners as established for the mining claims, then the mining claim's corners as fixed control the call for distance as given in the patent and distance called must yield to the established corners of the claims.

(*Plummer vs. McLain* (Texas Civil App.), 192 Southwestern, 571, p. 575.)

## ASSESSMENT WORK.

### Time of Performance—Resuming Work.

The United States mining statutes (sec. 2324) require that all locators of mining claims perform \$100 worth of work during each year to entitle them to hold the claim as against a relocater. After the year in which a location is made the entire assessment work must be performed during each year and must be completed within each calendar year, or a third person may enter and relocate the claim, unless the locator has resumed work after his failure to complete the same before a relocation is made. If a locator or owner has begun the assessment work before the expiration of any given year and is carrying on to completion such work the claim is not subject to relocation, although the locator or owner is not on a particular day upon the claim at work.

(*Plough vs. Nelson* (Utah), 161 Pacific, 1134.)

### Proof of Failure to Perform Assessment Work.

A person who has been acquainted with a mining location for years, familiar with its workings, and who assisted in doing the assessment work for the previous year, must make a strong case of failure of the prior locator to perform the annual assessment work before he can be heard to say the ground was vacant and unoccupied and subject to relocation by him.

(*Gold Creek Antimony Mines & Smelter Co. vs. Perry* (Washington), 162 Pacific, 996, p. 997.)

## EXTRALATERAL RIGHTS.

### Termination of Vein.

The fact that a vein terminates against a granite or monzonite at one end does not affect the extralateral rights given by the provisions of section 2322 of the United States Revised Statutes. Where a vein so terminates the locator would be entitled to have the end line pass through such point of termination parallel with the vertical plane of the other end line, thus giving him the extralateral right of the pursuit of the vein between the planes bounded by these end lines beneath all other mining claims under which it dips.

(*Alameda Mining Co. vs. Success Mining Co.* (Idaho), 161 Pacific, 862, p. 865.)

### Bases—Right to Follow Vein.

The provisions of section 2322, United States Revised Statutes, is determined by the apex on the surface upon which the prospector makes his location and the dip of the vein, and not upon the levels in the depth of the earth opened and disclosed in the working of the mine.

(*Alameda Mining Co. vs. Success Mining Co.* (Idaho), 161 Pacific, 862, p. 866.)

### Course of Vein.

The course of a vein is not determined by its direction at any single given point where the vein is a crooked one. A locator's extralateral rights must be determined by the course of the vein at its apex at the surface of the claim. The most practical rule is to regard the course of the vein as that which is indicated by the surface outcropping or surface exploration and workings. The lower levels of a mine frequently show a different direction of the vein from that which guided the miner in making his location and are at variance with conditions shown in openings nearest to the surface.

(*Alameda Mining Co. vs. Success Mining Co.* (Idaho), 161 Pacific, 862, p. 866.)

### Expert and Positive Testimony.

The positive testimony of miners who mined the ore and developed the mine and the engineers and others who made actual surveys of the mine involved in a controversy as to extralateral rights must be taken for more than the speculative theories of experts on the geology and formation of ore bodies and the mineralization of veins. Physical facts should be given greater weight than mere expert opinion and speculative theories.

(*Alameda Mining Co. vs. Success Mining Co.* (Idaho), 161 Pacific, 862, p. 868.)

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### INDUSTRIAL ACCIDENT COMMISSION OF THE STATE OF CALIFORNIA.

525 Market Street, San Francisco.  
Union League Building, Los Angeles.

### MINE SAFETY RULES.

Effective January 1, 1916.

Sections 51 to 72, inclusive, of the Workmen's Compensation, Insurance and Safety Act give the Industrial Accident Commission power to make and enforce safety orders, rules and regulations, to prescribe safety devices, to fix safety standards, and to order the reporting of accidents.

The phrase "place of employment" is defined in such a way that mining operations are included within the provisions of the act. It is stated that the terms "safe" and "safety" as applied to an employment or a place of employment shall mean such freedom from danger to the life or safety of employees as the nature of the employment will reasonably permit, and that the terms "safety device" and "safe-guard" shall be given a broad interpretation so as to include any practicable method of mitigating or preventing a specific danger.

The commission has power, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise, "to fix such reasonable standards and to prescribe, modify, and enforce such reasonable orders for the adoption, installation, use, maintenance and operation of safety devices, safeguards and other means or methods of protection, to be as nearly uniform as possible, as may be necessary to carry out all laws and lawful orders relative to the protection of the life and safety of employees in employments and places of employment."

In order to secure reasonable mine safety rules, which the Industrial Accident Commission has authority to make and enforce, a committee of three mine operators and three practical miners was appointed to meet with the mining engineer of the commission to formulate the proposed rules. The mine employees were unable to attend the meetings of the committee so that most of the work was done by the three operators appointed from the California Metal Producers' Association, and by the mining engineer of the commission. The employees made suggestions by mail.

The committee held a number of meetings and drafted Tentative Mine Safety Rules which were printed and distributed throughout the state, to those interested in mining. A public hearing was held June 11, 12 and 14, 1915, at which time the proposed Mine

Safety Rules were discussed in detail and a number of sections referred back to the committee to be redrafted. The committee met July 20 and 21, 1915, redrafted the sections that had been referred back to it, and a circular containing the redrafted sections was sent out to those interested.

A second public hearing was called for September 25, 1915, at which time it was agreed that, after listening to the additional discussion of the rules, the committee would prepare its final draft of the rules to present to the commission. This was done at a meeting held on October 13, 1915. At a meeting of the Industrial Accident Commission, the Mine Safety Rules were adopted and made permanent, to become effective on January 1, 1916.

In putting these rules into effect the Industrial Accident Commission desires to have the hearty cooperation of miners, operators, and others interested in making the mining industry less hazardous. It also desires to express its appreciation and thanks for the interest and cooperation of those who have assisted in the formulation of the rules. It is the earnest desire to have rules that are practical, workable, and fair, and to secure the enforcement thereof by means of cooperation.

The Industrial Accident Commission wishes to acknowledge the excellent cooperation of the California Metal Producers' Association, and to express its thanks for the assistance given in the preparation of the Mine Safety Rules. The commission also desires to express its appreciation and thanks to the individual members of the committee for their valuable services in preparing the rules.

NOTE.—For printed copies of these rules address the commission at either its San Francisco or Los Angeles Office.

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## SOLDIERS AND SAILORS TEMPORARILY RELIEVED FROM NECESSITY OF PERFORMING ASSESSMENT WORK ON MINING CLAIMS.

This step was taken by Congress and approved by the President, as a war measure, the text of the resolution reading as follows:

*"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of section twenty-three hundred and twenty-four of the Revised Statutes of the United States, which require that on each mining claim located after the tenth day of May, eighteen hundred and seventy-two, and until patent has been issued therefor, not less than \$100 worth of labor shall be performed or improvements made during each year, shall not apply to claims or parts of claims owned by officers or enlisted men who have been or may, during the present war with Germany, be mustered into the military or naval service of the United States to serve during their enlistment in the war with Germany, so that no mining claim or any part thereof owned by such person which has been regularly located and recorded shall be subject to forfeiture for nonperformance of the annual assessments during the period of his service or until six months after such owner is mustered out of the service or until six months after his death in the service; *Provided*, that the claimant of any mining location, in order to obtain the benefits of this resolution, shall file, or cause to be filed, a notice in the office where the location notice or certificate is recorded, before the expiration of the assessment year during which he is so mustered, giving notice of his muster into the service of the United States and of his desire to hold said mining claim under this resolution—  
*Approved, July 17, 1917.*"*

ASSESSMENT WORK SUSPENDED DURING 1917 AND 1918 ON  
ALL MINING CLAIMS, EXCEPT OIL PLACER LOCA-  
TIONS.

(Public Resolution No. 12, 65th Congress.)

(S. J. Res. 78.)

[Approved October 5, 1917.]

Joint Resolution to suspend the requirements of annual assessment work on mining claims during the years nineteen hundred and seventeen and nineteen hundred and eighteen.

*Resolved by the senate and house of representatives of the United States of America in congress assembled*, That in order that labor may be most effectively used in raising and producing those things needed in the prosecution of the present war with Germany, that the provision of section twenty-three hundred and twenty-four of the Revised Statutes of the United States which requires on each mining claim located, and until a patent has been issued therefor, not less than \$100 worth of labor to be performed or improvements to be made during each year, be, and the same is hereby, suspended during the years nineteen hundred and seventeen and nineteen hundred and eighteen:

*Provided*, That every claimant of any such mining claim in order to obtain the benefits of this resolution shall file or cause to be filed in the office where the location notice or certificate is recorded on or before December thirty-first, of each of the years nineteen hundred and seventeen and nineteen hundred and eighteen, a notice of his desire to hold said mining claim under this resolution; *provided, further*, That this resolution shall not apply to oil placer locations or claims.

This resolution shall not be deemed to amend or repeal the public resolution entitled "Joint resolution to relieve the owners of mining claims who have been mustered into the military or naval service of the United States as officers or enlisted men from performing assessment work during the term of such service," approved July seventeenth, nineteen hundred and seventeen.



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